Sherwin Summit Rehabilitation Project

Environmental Assessment
with a Finding of No Significant Impact

Initial Study with a Negative Declaration

On U.S. Highway 395 about 16 kilometers (10 miles) north of Bishop from KP R207.24 to R208.4 (PM R128.8/R129.5) in Inyo County to Tom's Place at KP R0.0/R16.6 (PM R0.0/R10.3) in Mono County

November 2004

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General Information About This Document

What's in this document?

The Department of Transportation and the Federal Highway Administration have prepared this Environmental Assessment with a Finding of No Significant Impact and an Initial Study with a Negative Declaration, which examines the potential environmental impacts of alternatives for the proposed project located in Inyo and Mono counties, California. The document describes why the project is being proposed, alternatives for the project, the existing environment that could be affected by the project, the potential impacts from each of the alternatives, and the proposed avoidance, minimization and/or mitigation measures.

A preliminary Environmental Assessment/Initial Study, dated December 2003, was circulated to the public from December 18, 2003 to April 5, 2004. A public hearing was held on March 24, 2004. A total of 29 comments were received on that document during the circulation period. The comments and the responses to comments are listed in Appendix J, which has been added since the draft document was circulated. Other additions or changes made to the document since the draft document was circulated are indicated by a vertical line in the right margin of the affected page. This information supercedes and/or clarifies information contained in the Initial Study/Environmental Assessment dated December 2003. The build alternative has been selected as the preferred alternative because it brings the roadway up to current standards and meets the purpose and need of the project.

For individuals with sensory disabilities, this document is available in Braille, large print, on audiocassette or computer disk. To obtain a copy in one of these alternate formats, please call or write to Caltrans, Attn: Mike Donahue, Southern Sierra Branch, 2015 E. Shields Ave #100, Fresno, CA 93726; phone; (559) 243 8157 Voice, or use the California Relay Service TTY number, 1(800) 735-2929.

FEDERAL HIGHWAY ADMINISTRATION
FINDING OF NO SIGNIFICANT IMPACT
FOR
Sherwin Summit Rehabilitation Project
On U.S. Highway 395
Inyo and Mono Counties, California

The Federal Highway Administration (FHWA) has determined that this project will not have any significant impact on the human environment. This finding of no significant impact is based on the attached Environmental Assessment, which has been independently evaluated by the FHWA and determined to adequately and accurately discuss the environmental issues and impacts of the proposed project. It provides sufficient evidence and analysis for determining that an environmental impact statement is not required. The FHWA takes full responsibility for the accuracy, scope, and content of the environmental assessment.

Oct 16, 2004
DATE

For
Gene K. Fong
Division Administrator
Federal Highway Administration

09- INY-395-KP R207.24/R208.4 (PM R128.8/R129.5)
MNO 395 KP R0.0/R16.6 (PM R0.0/R10.3)
09-269000

Improve U.S. Highway 395 from about 16 kilometers (10 miles) north of Bishop at KP R207.24 to R208.4 (PM R128.8/R129.5) in Inyo County to Tom's Place at KP R16.6 (R10.3) in Mono County by rehabilitating pavement, widening shoulders and the median, installing culvert extensions, improving existing chain-up areas, constructing a frontage road and relocating utilities

ENVIRONMENTAL ASSESSMENT/
INITIAL STUDY

Submitted Pursuant to: (State) Division 13, Public Resources Code
(Federal) 42 USC 4332(2)(C)

U.S. DEPARTMENT OF TRANSPORTATION
Federal Highway Administration, and
THE STATE OF CALIFORNIA
Department of Transportation

11/10/03
Date of Approval

Mike Donahue
Branch Chief,
Southern Sierra Environmental Analysis Branch
Central Region, Environmental Planning
California Department of Transportation

11/21/2003
Date of Approval

for
Gary N. Hamby
Division Administrator
Federal Highway Administration

State of California
Department of Transportation

SCH Number: 2003121094
9-INY-395-KP R207.24/R208.4 (PM R128.8/R129.5)
MNO 395 KP R0.0/R16.6 (PM R0.0/R10.3)
EA 09-269000

Negative Declaration

Pursuant to: Division 13, Public Resources Code

Project Description

The California Department of Transportation (Caltrans) proposes to improve U.S. Highway 395 from about 16 kilometers (10 miles) north of Bishop at kilometer posts R207.24 to R208.4 (post miles R128.8/R129.5) in Inyo County to Tom's Place at kilometer post R16.6 (post mile R10.3) in Mono County. The purpose of the proposed project is to rehabilitate pavement, widen shoulders and the median, correct non-standard curves, install culvert extensions, improve existing chain-up areas, construct a frontage road and relocate utilities along a 17.7-kilometer (11.0-mile) section of U.S. Highway 395.

Determination

Caltrans has prepared an Initial Study, and determined from this study that the proposed project would not have a significant effect on the environment for the following reasons:

- There would be no significant effects on social or educational facilities, floodplains or to any publicly owned park or recreation area. There would be no significant impacts on air and water quality. Noise levels would not increase near sensitive receptors. No hazardous waste sites are currently known to exist in the area. No endangered or threatened animals or plant species would be affected.
- Minor impacts to riparian areas, geological formations, and visual quality would be mitigated to a level of insignificance.
- Impacts to cultural resources would be mitigated under the provisions of the Caltrans, Federal Highway Administration and State Historic Preservation Officer Memorandum of Agreement. Recorded portions of all historic sites outside the Area of Potential Effects would be designated as Environmentally Sensitive Areas during construction. Archaeological monitoring would also be undertaken during construction as insurance against unanticipated effects upon sites.

Mike Donahue

Mike Donahue
Branch Chief, Southern Sierra Environmental Branch
Central Region Environmental Planning
California Department of Transportation

11/15/2004

Date

Summary

The California Department of Transportation (Caltrans) proposes to improve U.S. Highway 395 from about 16 kilometers (10 miles) north of Bishop at kilometer posts R207.24 to R208.4 (post miles R128.8/R129.5) in Inyo County to Tom's Place at kilometer post R16.6 (post mile R10.3) in Mono County (see Figure 1-1). The purpose of the proposed project is to rehabilitate pavement, widen shoulders and the median, correct non-standard curves, improve drainage, reconstruct and install guardrails and fences, improve existing chain-up areas, construct a frontage road and relocate utilities along a 17.7-kilometer (11.0-mile) section of U.S. Highway 395.

Purpose and Need. The proposed project would rehabilitate the road surface to relieve pavement cracking and wear and reduce maintenance costs, improve the road surface and bring the roadway up to current design standards.

Build Alternative. The project would widen the west shoulder to 1.5 meters (5 feet) and the east shoulder to 3.0 meters (10 feet) along a section of northbound U.S. Highway 395 in Inyo County from kilometer posts R207.24 to R208.4 (post miles R128.8 to R129.5) and in Mono County from kilometer posts R0.0 to 11.13 (post miles R0.0 to 6.92). The median would be widened to 4.2 meters (14 feet) and the shoulders to 3.0 meters (10 feet) from kilometer posts 11.13 to R15.9 (post miles 6.92 to R9.9) in Mono County.

Within Mono County, the existing chain-up areas along the eastern shoulder of the northbound lanes at kilometer post R3.80 (post mile R2.4), kilometer post R5.0 (post mile R3.1), and kilometer post R10.20 (post mile R6.31) would be enlarged to accommodate 50 vehicles. In addition, lighting would be provided for the chain-up area at kilometer post R5.02 (post mile R3.12) from the generator at the sandhouse at kilometer post R5.0 (post mile R3.12). A new median crossover would be constructed at the north end of the vista point at kilometer post R6.73 (post mile R4.18).

The project also includes the construction of a frontage road along the western side of U.S. Highway 395 to connect Lower Rock Creek Road and Rock Creek Road between kilometer posts R14.8 and R16.6 (post miles R9.20 and R10.3) in Mono County. To construct the frontage road, utilities would have to be moved. No shoulder widening would occur between kilometer posts R15.9 and R16.5 (post miles R9.9 to R10.3), but the Rock Creek Road/U.S. Highway 395 intersection would be improved (see Figures 1-2 and 1-3).

Throughout the project limits, there a number of major cut and fill sections expected for the shoulder widening work and the curve corrections. Approximately 10% of the project area on the east side, and 6% of the project area on the west side of the northbound lanes in the Phase I section (kilometer posts R207.24/R208.4 (post miles R128.8/R129.5) in Inyo County to kilometer post 11.13 (post mile 6.92) in Mono County) may have major cuts and fills. The Phase II section (kilometer post 11.13 (post mile 6.92) to kilometer post R16.6 (post mile R10.3)) would have major cut and fills in 18% of the east side and 15% are of the west side of U.S. Highway 395. Impacts can be minimized in some areas by creating 2:1 or 3:1 slopes instead of the standard 4:1 slopes. In areas where the slopes would be greater than 4:1, installation of guardrail might be required.

No-Build Alternative. The No-Build Alternative would leave the road as it is. This alternative does not meet the project purpose and need to bring the highway up to current standards and improve the road surface.

Phasing. Because of funding constraints, the construction of the project is likely to be phased. This document will refer to Phase I and Phase II. Phase I stretches from the southern project limits to the beginning of the section that is not divided at kilometer post 11.13 (post mile 6.92) in Mono County. Phase II goes from kilometer post 11.13 (post mile 6.92) to the northern limits of the project at kilometer post R16.6 (post mile R10.3) in Mono County.

Environmental Consequences and Mitigation. Construction of this project would have minor impacts on riparian resources, cultural resources, and visual quality that would be mitigated as described in the following sections.

Waterways and Hydraulic Systems. The proposed project crosses the creek bed of Rock Creek. Because the total site disturbance exceeds 0.4 hectare (1 acre), a Storm Water Pollution Prevention Plan would be required. The Statewide National Pollutant Discharge Elimination System construction permit, the Streambed Alteration Agreement or Notification pursuant to California Department of Fish and Game code 1600 et. sec, and Caltrans standard specifications would provide sufficient controls to prevent any short-term impacts during construction. There are no wetlands in the project limits according to the U.S. Army Corps of Engineers guidelines. Temporary impacts to “other waters of the U.S.” are anticipated with the Rock Creek culvert replacement, which would require a Nationwide 404 permit.

Biology. No direct or indirect impacts are expected to occur to any special-status species. The project would result in a total permanent disturbance of approximately 60.7 hectares (150 acres), broken down as follows: 19.8 hectares (49 acres) Shadscale/Sagebrush Scrub, 10.1 hectares (25 acres) Pinyon/Jeffrey Woodland and 30.8 hectares (76 acres) of Bitterbrush scrub-dominated pumice flats. Temporary disturbance of approximately 0.2 hectare (0.5 acre) of mixed riparian habitat could result during the replacement of the culverts at the Rock Creek/U.S. Highway 395 crossing.

Caltrans standard duff provision would be applied to the proposed project area in efforts to mitigate temporary and permanent impacts to natural vegetation. Areas of disturbance would be kept to the minimal area necessary to construct the project. Areas of temporary disturbance would be re-planted using a combination of grass, shrubs, and tree species native to the area.

Cultural. Cultural resource studies have identified 32 archaeological sites within the Area of Potential Effects for the proposed project. There are no architectural resources or bridges located within the Area of Potential Effects. The only resource that has been previously found eligible for the National Register of Historic Places is site CA-MNO-2433/H. Seventeen sites are located within the Area of Potential Effects, but lie outside the Area of Direct Impact. These sites are considered eligible properties for the purpose of this project only and would be protected by establishing Environmentally Sensitive Areas. After evaluating the remaining historic properties identified in the Area of Potential Effects, it was determined that the following archaeological sites are eligible for the National Register of Historic Places for their potential to contribute information about the prehistory of the region: CA-MNO-2433/H, CA-MNO-3465, CA-MNO-3490.

The impacts of the proposed project to 20 of these historic properties would be mitigated under the terms of an accompanying Memorandum of Agreement, which calls for the establishment of Environmentally Sensitive Areas, as well as data recovery excavations with associated reporting, publication of findings, and public outreach. Recorded portions of the sites outside the Area of Direct Impact would be designated as Environmental Sensitive Areas during construction. Archaeological monitoring would also be undertaken during construction as insurance against unanticipated effects upon the sites.

Geology. The geological formation in the northern section of the project, the *Big Pumice Cut*, appears to be consistent in form to at least 30 meters (100 feet)

perpendicular to the top of the cut face. Laying the slope back to a shallower angle would possibly produce several benefits in addition to the design benefit. A new cut face would reveal more of the detail of the events surrounding the explosion that left these deposits on the glacial till. A shallower cut face would also reduce the erosion and preserve the detail exposed for a much longer time.

Visual. With the implementation of the stated mitigation methods, the visual impacts of this project can be reduced and would not result in substantial changes in overall visual quality. The measures recommended would preserve and restore the scenic assets along this section of U.S. Highway 395. This would enable the traveler to continue to experience and appreciate the unique natural resources in the area, namely the Volcanic Tablelands, which are part of a 1,502-square-kilometer (580-square-mile) area covered by a series of volcanic ash flows from the eruption of the Long Valley caldera more than 700,000 years ago.

Coordination. Caltrans consulted with the U.S. Fish and Wildlife Service, California Department of Fish and Game, the U.S. Army Corps of Engineers, the Regional Water Quality Control Board, Native American representatives and the Native American Heritage Commission during the course of the environmental studies for the proposed project.

Caltrans participated in three public meetings to discuss the Sherwin Summit Rehabilitation project. Meetings were held on February 13, 2002 at Paradise Fire Station; February 27, 2002 at the Crowley Lake Community Center; and April 29, 2002 at Swall Meadows Fire Station. Most of the comments from participants at these meetings were about the proposed frontage road connecting Old Sherwin Grade Road (also referred to as Lower Rock Creek Road) and Rock Creek Road and removing the intersection of the former. Overall, the response from the meeting attendees was largely positive toward the project. Several attendees noted that they would like improvements to the existing intersection at Tom's Place.

During the initial public comment period (December 18, 2003 to January 30, 2004), an opportunity for a public hearing was given to the public, and several requests were made. Caltrans conducted a Public Hearing on March 24, 2004 and extended the public comment period to April 5, 2004. See Appendix J for comments received and responses to comments.

Utilities. Between kilometer posts 12.55 and R16.57 (post miles R7.8 and R10.3), there would be potential utility relocations from the Los Angeles Department of Water and Power and Southern California Edison of up to 40 power poles.

Permits. It is anticipated that the following three permits would be required for this project: 1) a Streambed Alteration Agreement pursuant to the California Department of Fish and Game code 1600 et. sec. 2) a 404 Nationwide Permit from the U.S. Army Corps of Engineers, if the culverts are to be replaced and/or upgraded, and 3) coordination with the Lahontan Regional Water Quality Control Board before any proposed highway construction.

A summary of the potential impacts from the build and no-build alternatives is provided in the following table.

Summary of Potential Impacts from Alternatives

Potential Impacts		No-Build Alternative	Build Alternative
Relocation	**Business Displacement**	No	No
	Housing Displacement	No	No
	Utility Service Relocation	No	Yes
Air Quality		No	No
Noise		No	No
Waterways and Hydrologic Systems		No	Temporary impacts to one "Other Waters of the U.S."
Floodplain		No	No
Threatened or Endangered Species		No	No
Historical and Archaeological Sites		No	Two sites adversely affected; 18 sites not adversely affected
Hazardous Waste Sites		No	No
Geology		No	No
Paleontology		No	No
Visual		No	Minor impacts to visual resources can be mitigated
Construction		No	No

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List of Abbreviated Terms

ADI	Area of Direct Impact
Caltrans	California Department of Transportation
CEQA	California Environmental Quality Act
FHWA	Federal Highway Administration
KP	Kilometer Post
NEPA	National Environmental Policy Act
PM	Post Mile
PPM	Parts Per Million
SHPO	State Historic Preservation Officer

Chapter 1 Purpose and Need

1.1 Introduction

In conjunction with the Federal Highway Administration (FHWA), the California Department of Transportation (Caltrans) proposes to improve a 17.7-kilometer (11-mile) segment of U.S. Highway 395. The proposed project begins about 16 kilometers (10 miles) north of Bishop at kilometer post R207.24 (post mile R128.8) in northern Inyo County and ends at Tom's Place at kilometer post R16.6 (post mile R10.3) in southern Mono County (Figure 1-1). Caltrans plans to rehabilitate pavement, widen shoulders and medians, flatten slopes, improve drainage and replace the existing box culvert at Lower Rock Creek, bring several horizontal curves up to standard, improve existing chain-up areas (where motorists put chains on their vehicles in inclement weather), reconstruct and install guardrails and fences, construct a frontage road, and relocate utilities.

The project would widen the west shoulder to 1.5 meters (5 feet) and the east shoulder to 3.0 meters (10 feet) along a section of northbound U.S. Highway 395 in Inyo County from kilometer posts R207.24 to R208.4 (post miles R128.8 to R129.5) and in Mono County from kilometer posts R0.0 to 11.13 (post miles R0.0 to R6.92). The median width would be increased to 4.2 meters (14 feet) and the east and west shoulders of the section that is not divided would be widened to 3.0 meters (10 feet) from kilometer posts 11.13 to R15.9 (post miles 6.92 to R9.9) in Mono County. No shoulder widening would occur between kilometer posts R15.9 to R16.6 (post miles R9.9 to R10.3), but the Rock Creek Road/U.S. Highway 395 intersection would be improved (see Figures 1-2 and 1-3). Existing traffic signs located in construction areas would be moved to a similar location in the Caltrans right-of-way.

Five curves in the project area within Mono County are not up to current design standards. The first one is from kilometer posts R5.44 to R6.02 (post miles R3.38 to R3.74), with a current radius of 548.6 meters (1,800 feet). The second curve is from kilometer posts 12.6 to 13.07 (post miles 7.8 to 8.12), with a radius of 487.7 meters (1,600 feet). The third curve is from kilometer posts 14.24 to 14.56 (post miles 8.85 to 9.05) with a radius of 426.7 meters (1,400 feet). The fourth curve, from kilometer posts 14.69 to 15.06 (post miles 9.13 to 9.36), has a radius of 426.7 meters (1,400 feet), and is located at the geological formation, the *Pumice Cut*. This geological feature is located on the east side of U.S. Highway 395 between kilometer posts 14.5

and 14.8 (post miles 9.02 to 9.22). The fifth curve is a compound curve: a 457.2-meter (1,500-foot) radius curve and a 1,219-meter (4,000-foot) radius curve from kilometer posts 15.19 to R15.45 (post miles 9.44 to R9.60). The standard radius for a design speed of 110 kilometers per hour (68 miles per hour) is 600 meters (1,968.5 feet).

Improvements to existing chain-up areas would consist of enlarging three chain-up areas along the eastern shoulder of the northbound lanes at kilometer posts R3.8, R5.0, and R10.2 (post miles R2.34, R3.1, and R6.31) in Mono County to accommodate up to 50 vehicles. Lighting installation would be included in the improvements at the chain-up areas located at kilometer post R5.0 (post mile R3.1), and kilometer post R10.2 (post mile R6.31), if feasible. In addition, the north end of the vista point could be extended as far north as kilometer post R6.73 (post mile R4.18) to facilitate use as an additional chain-up area. Also, Caltrans would potentially pave a median crossover in this location.

Throughout the project limits, there are a number of major cut and fill sections expected for the shoulder widening work and the curve corrections. Approximately 10% of the project area on the east side, and 6% of the project area on the west side of the northbound lanes in the Phase I section (kilometer posts R207.24/R208.4 (post miles R128.8/R129.5) in Inyo County to kilometer post 11.13 (post mile 6.92) in Mono County) may have major cuts and fills. The Phase II section (kilometer post 11.13 (post mile 6.92) to kilometer post R16.6 (post mile R10.3)) would have major cut and fills in 18% of the east side and 15% are of the west side of U.S. Highway 395. Impacts can be minimized in some areas by creating 2:1 or 3:1 slopes instead of the standard 4:1 slopes. In areas where the slopes would be greater than 4:1, installation of guardrail might be required.

The project would also extend Crowley Lake Drive (the northern extension of Lower Rock Creek Road) from Rock Creek Road to the south, connecting with Lower Rock Creek Road. This work would include utility relocation, extension/installation of culverts, and fence removal and relocation. The road would follow the existing paved road (Crowley Lake Drive) initially and would be designed with two 3.6-meter (12-foot) lanes and 2.4-meter (8-foot) shoulders and would be roughly 1,700 meters (one mile) long. The frontage road would be turned over to Mono County after completion (see Figure 1-3).

1.2 Project Background

U.S. Highway 395 is a high emphasis route in the Interregional Road System. It is a major element of a transportation corridor connecting the eastern Sierra region (Inyo, Mono, and Alpine counties) and western-central Nevada to the Southern California region. This transportation corridor has been identified in previous California planning studies as one of five major recreational corridors serving all of Southern California and one of 11 major regional transportation corridors in California. In addition, U.S. Highway 395 carries a State Scenic Highway designation throughout the project limits in Mono County.

As a transportation corridor, it serves several purposes. The highway corridor is vital for the economy of the eastern Sierra region for the shipment of goods and materials. The region imports virtually all of its food, clothing, and other goods. This corridor also sees major recreational use, with more than 7 million visitor-days of recreation generated annually in the eastern High Sierra.

An Origination and Destination Travel Study conducted in 2000 for U.S. Highway 395 through Inyo and Mono counties indicated that 68 percent of the non-commercial traffic was recreational. The study also indicated 36 percent of all vehicles coming into the eastern Sierra region originated in Southern California, with an average personal vehicle occupancy of 2.5 persons per vehicle. Trucks (trucks, RVs, and buses) composed 16.6 percent of the traffic volume.

In addition to being listed in the Interregional Road System as a high emphasis route, U.S. Highway 395 has been designated a “larger truck” route by the federal Surface Transportation Assistance Act and included in the Subsystem of Highways for the Movement of Extra Legal Permit Loads System.

The speed limit throughout the project area is 105 kilometers per hour (65 miles per hour).

There is little development along the proposed project limits because most of the land is owned by the Inyo National Forest and Mono County. The community of Tom’s Place is located at the northern end of the project limits.

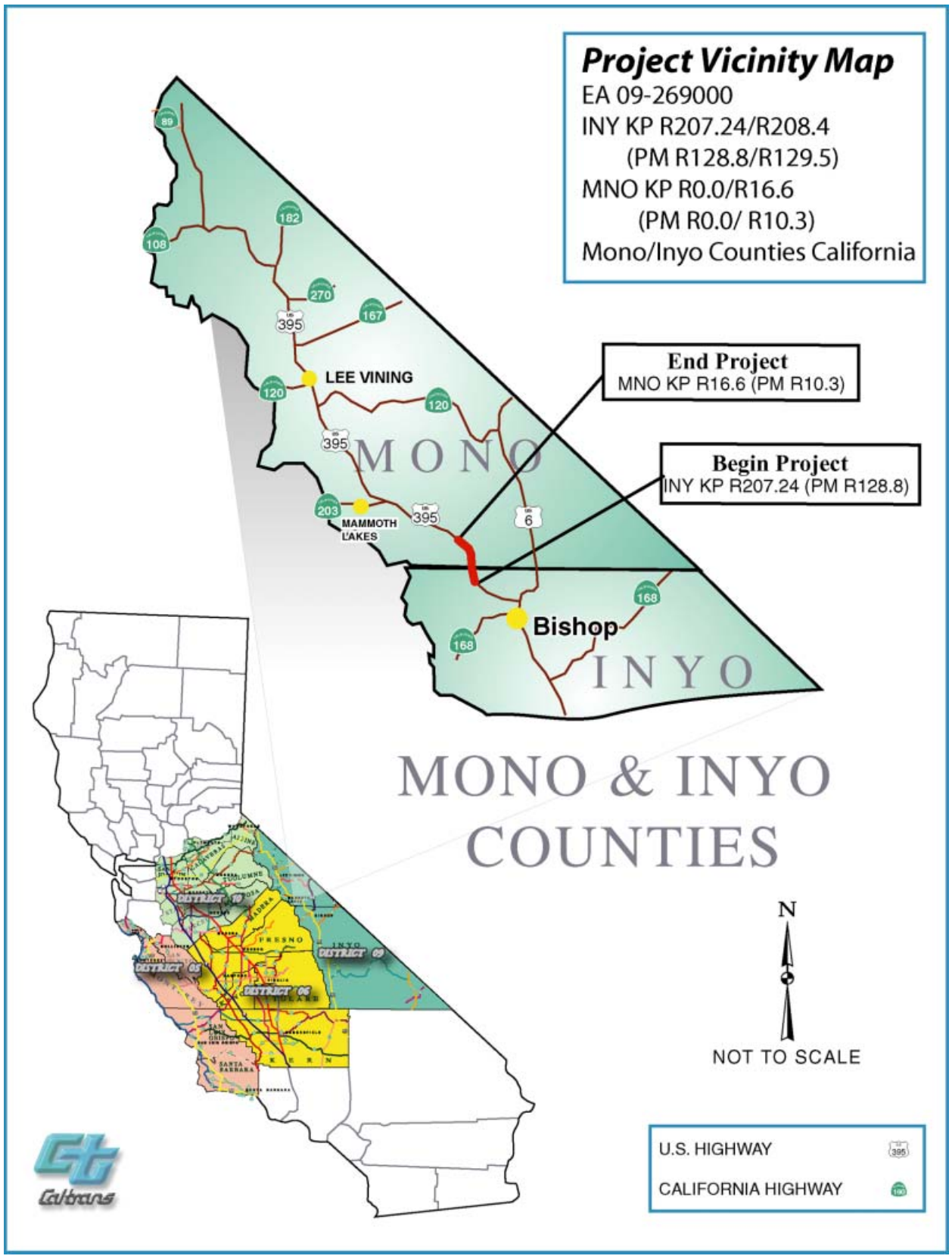

Figure 1-1 Project Vicinity Map

Project Location Map

Sherwin Summit Rehab Project

INY KP R207.24/R208.4 (PM R128.8/R129.5)

MNO KP R0.0/R16.6 (PM R0.0/R10.3)

EA 09-269000

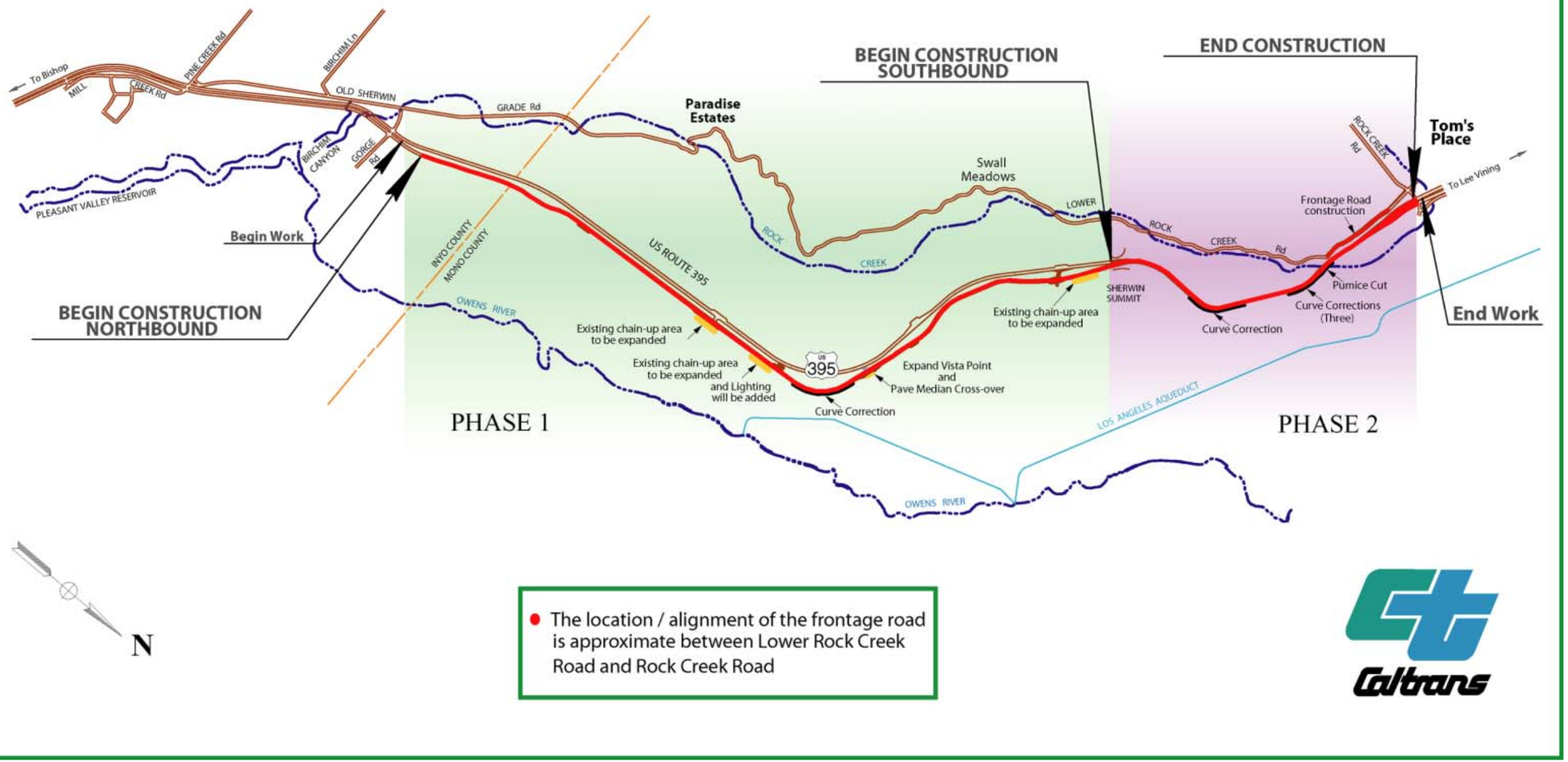

Figure 1-2 Project Location Map

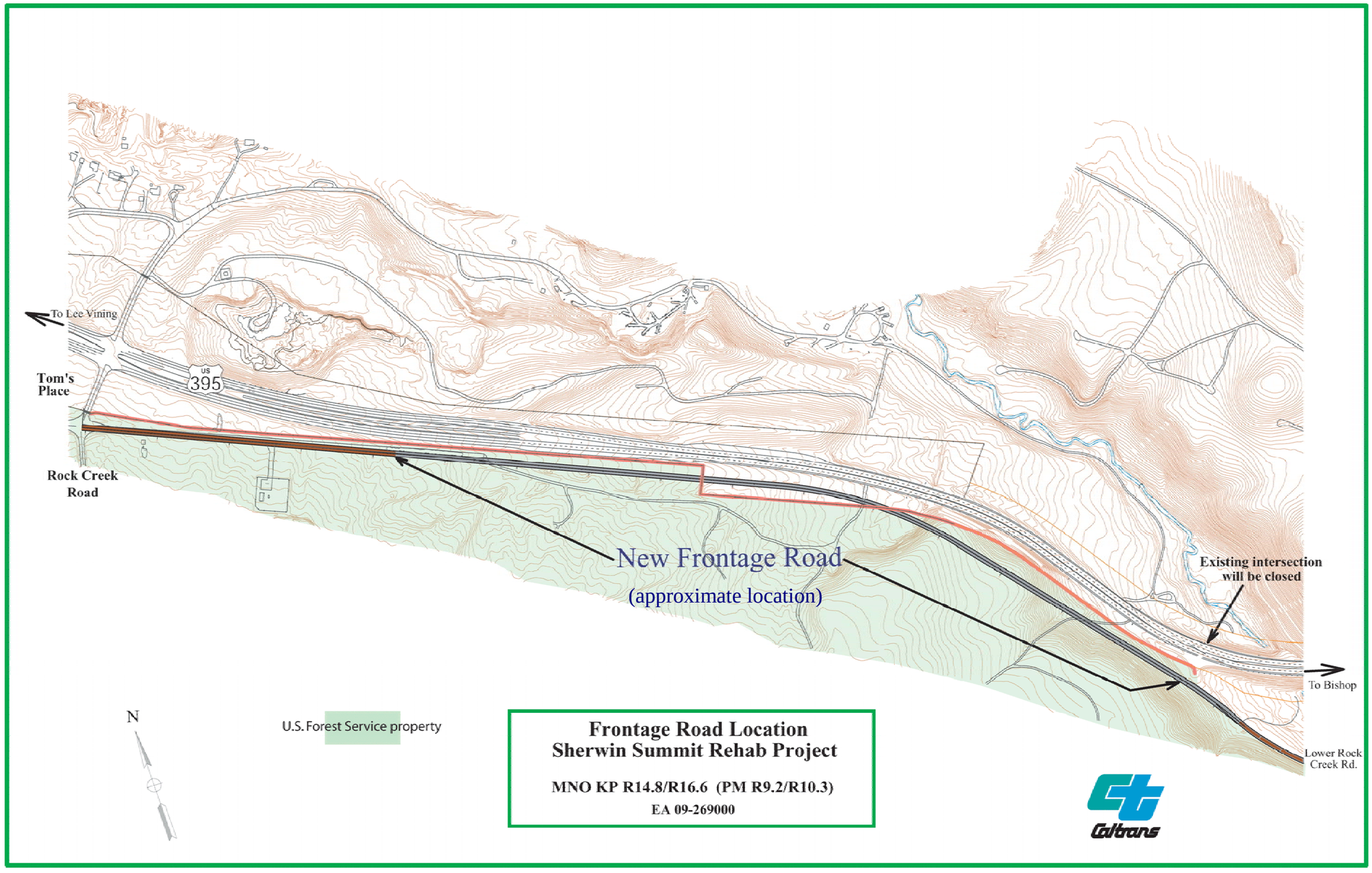

Figure 1-3 Frontage Road Location Map (approximate)

1.3 Project Description

Within the project limits, the existing U.S. Highway 395 is an expressway with four 3.6-meter (12-foot) lanes and 1.2-meter (4-foot) to 3.1-meter (10-foot) paved shoulders, which do not meet the current design standards of 3-meter (10-foot) and 1.5 meter (5-foot) shoulders. See Figures 1-4 and 1-5 for typical cross-sections of the existing roadway. Median widths in the project limits vary from 60 meters (200 feet) at the southern end to 1.2 meters (4 feet) in the section that is not divided.

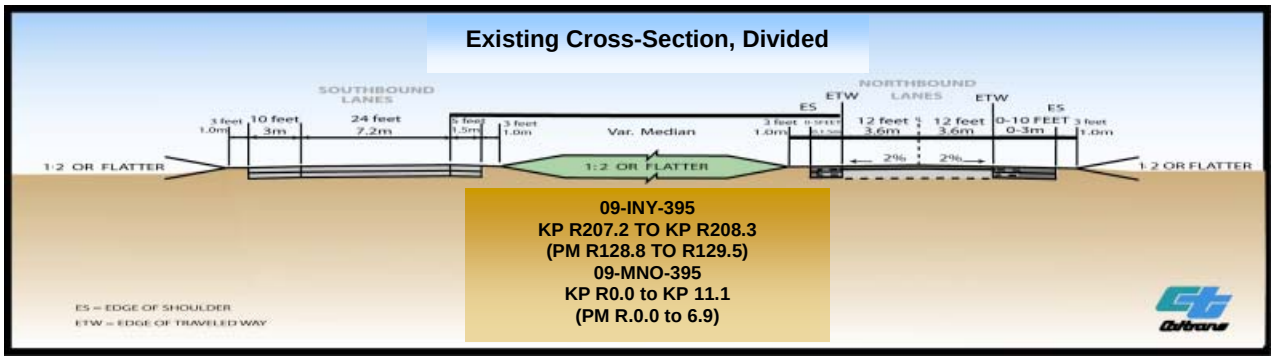

Figure 1-4 Existing Cross-Section, Divided

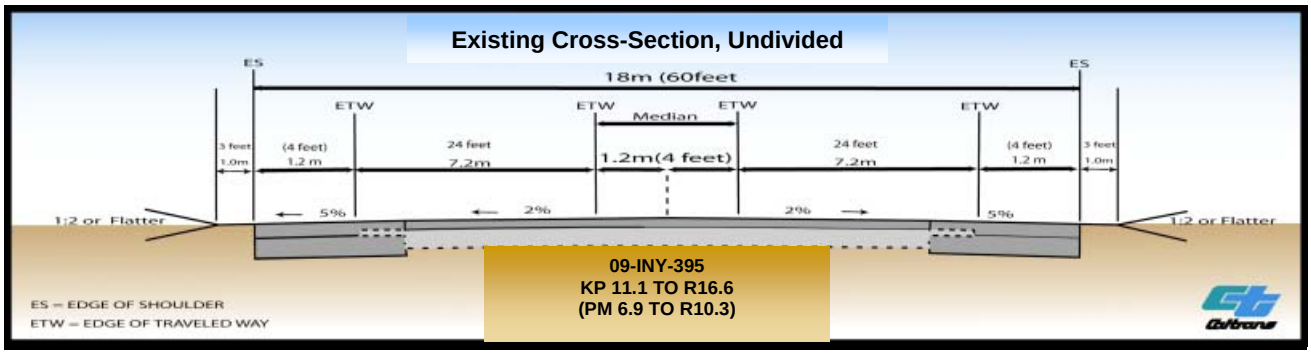

Figure 1-5 Existing Cross-Section, Undivided

1.3.1 Traffic Data

Traffic data is presented in Table 1.1. The existing Annual Average Daily Traffic volume is 5,300 vehicles per day for the year 2000, with the peak month being almost 53 percent higher (8,100 vehicles per day). The 10-year and the 20-year growth rates from the construction year were determined to be 0.5 percent.

Table 1.1 Traffic Data for U.S. Highway 395

Traffic Data Studied	2000	2016	2026
Annual Average Daily Traffic (number of vehicles)	5,300	5,740	6,030
Peak Hour	770		
Peak Month Average Daily Traffic	8,100	-	-
Trucks	9%	-	-
Growth per Year	-	0.5%	0.5%

Vehicles have been surveyed ranging in speed from 72 kilometers per hour (45 miles per hour) to 129 kilometers per hour (80 miles per hour). The current speed limit is 105 kilometers per hour (65 miles per hour).

1.3.2 Safety Analysis

Table 1.2 shows accident data for U.S. Highway 395. Most of the alignment for this section of U.S. Highway 395 is a divided highway. Therefore, the accident data was analyzed separately for the northbound lanes because no work would be done on the southbound lanes in segment one. The first segment for the northbound lanes ends at kilometer post 11.13 (post mile 6.92) in Mono County, where the separation between the northbound and southbound lanes ends. The second segment goes from this undivided section to the northern project limits at kilometer post R16.6 (post mile R10.3) and includes the northbound and southbound lanes.

The Traffic Accident and Survey Analysis System and Table 1.2 show 31 recorded accidents for the northbound project limits on this portion of U.S. Highway 395 for the most recent three-year period ending April 30, 2002. This resulted in a total accident rate of 1.32, more than twice the statewide average of 0.54 for a similar roadway. One fatal accident resulted in an actual fatal rate of 0.043, above the statewide average rate of 0.014. Of the total collisions, 32 percent (10) resulted in 12 injuries with a total *Fatal & Injury* rate of 0.47, twice the statewide average of 0.24.

Solo vehicles were involved in 94 percent (29) of the accidents; about half of them (48 percent or 15) happened on an icy or wet roadway. Primary collision factors were: unsafe speed, 39 percent (12); improper turn, 23 percent (7); hitting deer, 13

percent (4); falling asleep, 13 percent (4); and influence of alcohol, unsafe lane change and vehicle fire, 3 percent (one each).

Table 1.2 Accident Rates

May 1, 1999 – April 30, 2002

(Expressed in million vehicle miles traveled)

Portion of U.S. Highway 395	Actual			Statewide Average		
Segment 1 Northbound only	**Fatal**	**Fatal & Injury**	**Total***	**Fatal**	**Fatal & Injury**	**Total***
Percentage	0.043	0.47	1.32	0.014	0.24	0.54
Accidents	1	10	31	-	-	-
Segment 2 Undivided Highway	**Fatal**	**Fatal & Injury**	**Total***	**Fatal**	**Fatal & Injury**	**Total***
Percentage	0.0	0.42	0.84	0.020	0.48	1.19
Accidents	0	9	18	-	-	-

* Total includes “property damage only” accidents

The proposed project would contribute to a reduction in the accident rate in Segment 1, with installation of wider shoulders with rumble strips to help decrease single-vehicle run-off-road accidents, creating more room to maneuver and alert inattentive drivers in time to correct steering. Clear recovery zone improvements would help reduce accidents and decrease their severity. The number of ice- and snow-related collisions on the curve between kilometer posts 7.96 to 8.34 (post miles 4.95 to 5.18) called for a new chain-up area. In addition, a new road surface may also reduce collisions because it would be more uniform and smooth, with better friction and better delineation provided by the contrasting color of new pavement.

For the second segment, starting at kilometer post 11.13 (post mile 6.92), there were 18 recorded accidents on this portion of the northbound and southbound lanes of U.S. Highway 395 for the most recent three-year period ending April 30, 2002. This resulted in a total accident rate of 0.84, below the statewide average of 1.19 for a similar roadway. There were no fatal accidents during this timeframe, but 50 percent (9) of the accidents resulted in injuries with a total *Fatal & Injury* accident rate of 0.42, just below the average rate of 0.48.

Solo vehicles were involved in 67 percent (12) of the accidents, about one third of them (6) on an icy or wet roadway surface. Six (33 percent) of the total accidents were overturn collisions; five (28 percent) were hit-object collisions; two (11 percent) were head-on collisions; two (11 percent) were rear-end collisions; and there was one each of a sideswipe, broadside and vehicle fire. Primary collision factors were: unsafe speed, 39 percent (7); improper turn, 17 percent (3); influence of alcohol, 17 percent (3); falling asleep, 11 percent (2); and unsafe lane change, gust of wind, vehicle fire, 6 percent (one each).

The proposed project would rehabilitate the road surface to relieve cracking and wear and reduce maintenance costs, improve the road surface, and bring the highway up to current design standards. All features of the proposed highway would meet the current standards for a design speed of 110 kilometers per hour (70 miles per hour). Rehabilitation is needed based on high deflections and surface cracking caused by heavy loads day in and day out.

Improvements to three existing chain-up areas would consist of installing lights (if feasible) and enlarging the eastern shoulder of the northbound lanes to accommodate vehicles. A new median crossover would be constructed at the north end of the vista point. Existing traffic signs located in construction areas would be moved to a similar location in the Caltrans right-of-way.

1.3.3 New Frontage Road

Closing of the current intersection of Lower Rock Creek Road/U.S. Highway 395, constructing the frontage road and moving traffic to the existing intersection of Rock Creek Road/Crowley Lake Road would improve safety because the current intersection is in an area with an increased accident concentration. In addition, constructing the frontage road and closing the Lower Rock Creek intersection would reduce potential conflict points. The road would follow the existing paved road (Crowley Lake Drive) initially, continue south and meet with the existing Lower Rock Creek Road just west of the current intersection of Lower Rock Creek Road and U.S. Highway 395 (see Figure 1-3). The frontage road would be designed with two 3.6-meter (12-foot) lanes and 2.4-meter (8-foot) shoulders and would be roughly 1,700 meters (one mile) long. The frontage road would be turned over to Mono County after completion.

Constructing the frontage road would provide an alternate route for bicycles and other slower vehicles to travel continuously from Crowley Lake Drive to the foot of

Sherwin Grade and beyond without having to get near the high-speed traffic on the four-lane expressway. Recreational trips would be safer by eliminating the speed differences between slower-moving recreational vehicles and fast-moving traffic. The average daily traffic on Lower Rock Creek Road is estimated to be around 200 vehicles per day. Traffic impacts to the Rock Creek Road/Crowley Lake Drive intersection are expected to be negligible.

Chapter 2 Alternatives

2.1 Project Alternatives

The build alternative has been selected as the preferred alternative because it would bring the roadway up to current standards and meet the purpose and need of the project.

2.1.1 No-Build Alternative

The No-Build Alternative would leave the roadway as it is. This alternative was examined and rejected because relief from existing roadway deficiencies would not be achieved. This alternative would not address the need for rehabilitation of the road surface or bringing the road up to current design standards.

2.1.2 Build Alternative (Preferred Alternative)

The proposed project would improve a 17-kilometer (11-mile) segment of U.S. Highway 395, beginning about 16 kilometers (10 miles) north of Bishop at kilometer post R207.24 (post mile R128.8) in northern Inyo County and ending at Tom's Place at kilometer post R16.6 (post mile R10.3) in southern Mono County (Figures 1-1 and 1-2). Caltrans plans to rehabilitate pavement, widen shoulders and medians, flatten slopes, improve drainage and replace the existing box culvert at Lower Rock Creek, bring several horizontal curves up to standard, improve existing chain-up areas, reconstruct and install guardrails and fences, construct a frontage road, improve the Rock Creek/U.S. Highway 395 intersection, and relocate utilities.

The total escalated project cost (right-of-way and construction cost) of the proposed project is estimated to be $23,800,000 (escalated for fiscal year 2007/08). Because of funding constraints, the construction of the project would likely be phased. Phase I stretches from the southern project limits to the beginning of the undivided section at kilometer post 11.13 (post mile 6.92) in Mono County. Phase II goes from kilometer post 11.13 (post mile 6.92) to the northern limits of the project at kilometer post R16.6 (post mile R10.3).

2.1.2.1 Phase I

Phase I, from kilometer post R207.24 (post mile R128.8) in Inyo County to kilometer post 11.13 (post mile 6.92) in Mono County, encompasses the following work. Phase

I would widen the west shoulder to 1.5 meters (5 feet) and the east shoulder to 3.0 meters (10 feet) along this section of northbound U.S. Highway 395 (see Figure 2-1). Where feasible, 1:4 side slopes would be incorporated, while the natural slopes would be mimicked as closely as possible. Approval from the District Landscape Architect would be required for side slopes steeper than 1:4. In the Phase I project area, there is one curve from kilometer posts R5.44 to R6.02 (post miles R3.38 to R3.74) with a current radius of 548.6 meters (1,800 feet), which would be brought up to current design standards. The standard radius for a design speed of 110 kilometers per hour (70 miles per hour) is 600 meters (1,968.5 feet).

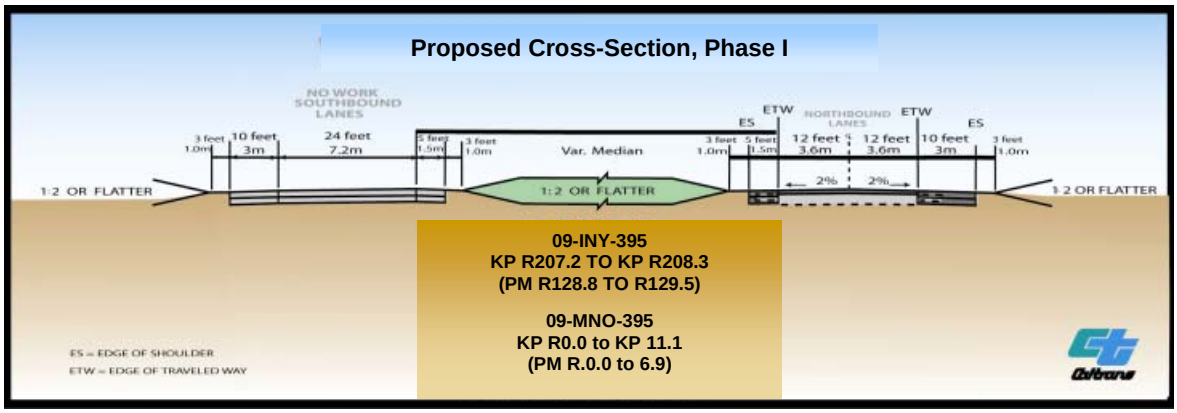

Figure 2-1 Proposed Cross-Section, Phase I

In addition, improvements to existing chain-up areas would consist of enlarging three chain-up areas along the eastern shoulder of the northbound lanes at kilometer posts R3.8, R5.0, and R10.2 (post miles R2.4, R3.1, and R6.31) in Mono County to accommodate up to 50 vehicles. Lighting installation would be included in the improvements at the chain-up areas located at kilometer post R5.0 (post mile R3.1) and kilometer post R10.2 (post mile R6.31). In addition, the north end of the vista point could be extended as far north as kilometer post R6.73 (post mile R4.18) to facilitate use as an additional chain-up area. Caltrans would potentially pave a median crossover in this location.

The cost for this phase of the proposed project is estimated to be $11,300,000 (escalated for fiscal year 2007/08).

2.1.2.2 Phase II

Phase II, from kilometer post 11.13 (post mile 6.92) to kilometer post R16.6 (post mile R10.3) in Mono County would encompass the following work. The median

width would be increased to 4.2 meters (14 feet), and the east and west shoulders of the undivided section would be widened to 3.0 meters (10 feet) from kilometer posts 11.13 to R15.9 (post miles 6.92 to R9.9) (see Figure 2-2). No shoulder widening would occur between kilometer posts R15.9 to R16.6 (post miles R9.9 to R10.3) because the widths already comply with current standards, but the Rock Creek/U.S. Highway 395 intersection would be improved.

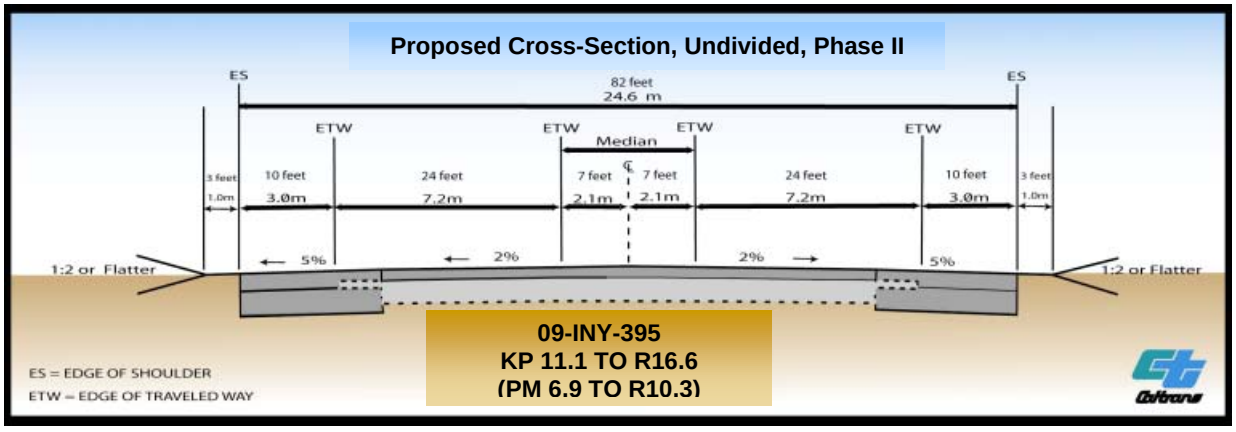

Figure 2-2 Proposed Cross-Section, Undivided, Phase II

Four curves in the Phase II project area are not up to current design standards. The first, from kilometer posts 12.6 to 13.07 (post miles 7.8 to 8.12), has a radius of 487.7 meters (1,600 feet). The second curve, from kilometer posts 14.24 to 14.56 (post miles 8.85 to 9.05), has a radius of 426.7 meters (1,400 feet). The third curve at kilometer posts 14.69 to 15.06 (post miles 9.13 to 9.36), with a radius of 426.7 meters (1,400 feet), is located at the geological formation, the *Pumice Cut*. This geological feature is located on the east side of U.S. Highway 395 between kilometer posts 14.5 and 14.8 (post miles 9.02 to 9.22). The fourth curve is a compound curve: a 457.2-meter (1,500-foot) radius curve and a 1,219-meter (4,000-foot) radius curve from kilometer posts 15.19 to R15.45 (post miles 9.44 to R9.60). The standard radius for a design speed of 110 km/h (70 mph) is 600 meters (1,968.5 feet).

This phase also includes an extension of Crowley Lake Drive from Rock Creek Road connecting with Lower Rock Creek Road to the south between kilometer posts R14.8 and R16.6 (post miles R9.20 and R10.3). This work would include utility relocation, extension/installation of culverts, and fence removal and relocation (see Figure 2-3 for cross-section).

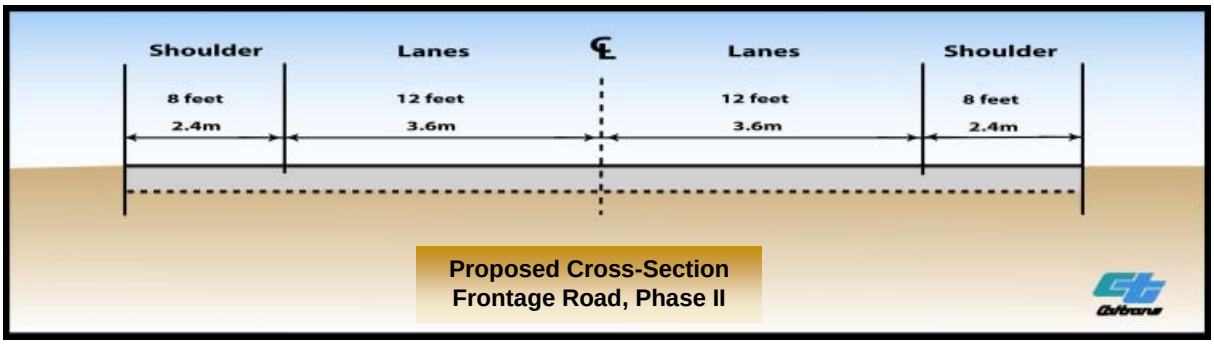

Figure 2-3 Proposed Cross-Section, Frontage Road, Phase II

Construction for Phase I would occur in the 2007/2008 fiscal year, while construction for Phase II is anticipated for the 2011/2012 fiscal year.

The cost for Phase II of the proposed project was estimated to be $12,500,000 ($15,400,000 escalated for fiscal year 2011/2012).

Chapter 3 Affected Environment, Environmental Consequences, and Mitigation

This chapter describes the existing environmental setting for the project study area. The "project study area" encompasses the geographic limits of the proposed project's potential direct and indirect effects, particularly for visual, biological, and cultural resources.

3.1 Land Use - Right-of-Way Needs

3.1.1 Affected Environment

The project site is located within the Eastern Sierra Nevada region of the Great Basin Floristic Province. Elevation ranges from the valley floor level of approximately 1,372 meters (4,500 feet) at the base of Sherwin Grade to approximately 2,164 meters (7,100 feet) at the northern end of the project. The southern end of the project is dominated by a Sagebrush Scrub plant community. Going north, as elevation increases, a Pinyon/Jeffrey Pine Woodland zone is the next transitional plant community dominated by Pinyon pines and sagebrush. Approaching the Sherwin Grade summit, occasional Jeffrey pines are interspersed among the dominant Pinyon pine forest. Beyond the summit of Sherwin Grade (along the existing U.S. Highway 395 highway alignment), the trees give way to a Bitterbrush/Sagebrush Shrub community on the open pumice flats found along U.S. Highway 395. This shrub community continues north toward the highway crossing at Rock Creek and ultimately to the northern project limit at kilometer post R16.6 (post mile R10.3).

Nearly all the adjacent land is classified as open-space and is owned by the Inyo National Forest and Mono County. At the northern end of the project limits, there are a number of private properties in the Tom's Place area that would not be affected by this project.

3.1.2 Impacts

The build alternative would use the existing right-of-way, which ranges from 30 meters to 91.4 meters (100 feet to 300 feet) wide. An additional 79.9 hectares (197 acres) of public land from the Inyo National Forest and Mono County is needed for

the build alternative. No homes or businesses would be affected by either alternative (see also Appendix I for the Draft Relocation Impact Report). Right-of-way needed for the construction of the frontage road would be relinquished to Mono County after completion of this project.

3.1.3 Mitigation

No mitigation measures would be necessary.

3.2 Social and Economic

Environmental Justice. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, signed by President Clinton on February 11, 1994, directs federal agencies to take the appropriate and necessary steps to identify and address disproportionately high and adverse effects of federal projects on the health or environment of minority and low-income populations to the greatest extent practicable and permitted by law.

The proposed project is located within a rural environment. There are no communities, residents, or structures within the project limits that would be affected. No minority or low-income populations have been identified within the project limits that would be adversely affected by the proposed project as specifically required by Executive Order 12898 regarding environmental justice.

In addition to complying with the requirements of Executive Order 12898 regarding environmental justice, Caltrans is also committed to Title VI of the Civil Rights Act. This act provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. See Appendix C for a copy of the Caltrans Title VI policy statement.

3.3 Waterways and Hydrologic Systems, Water Quality

3.3.1 Affected Environment

The proposed project crosses Rock Creek at kilometer post 14.9 (post mile 9.3). There are no wetlands in the project area. However, there is some riparian vegetation in the area where the project calls for replacement of the existing culvert. The existing riparian zones are a diverse ecosystem made up of plant, animal, and aquatic

communities whose presence can be attributed to factors that are stream-induced or stream-related.

3.3.2 Impacts

At Rock Creek, construction activities during the replacement of the culvert may create short-term impacts from soil erosion or equipment intrusion. Measures would be required to protect the water quality of the creek and the existing riparian vegetation found along the creek. In areas where riparian impacts are unavoidable, project design measures would be used to keep project impacts to a minimum. Temporary disturbance of approximately 0.2 hectare (0.5 acre) of mixed riparian habitat could occur during the replacement of the culvert at the Rock Creek/U.S. Highway 395 crossing. In addition, temporary impacts of less than 0.2 hectare (0.5 acre) to "other waters of the U.S." would occur during the culvert replacement at Rock Creek.

Water quality impacts from sediment moving downstream could occur if improper construction techniques are used when upgrading the drainage structures. Caltrans specifications and storm water policies when used in conjunction with permits and requirements of the California Department of Fish and Game and the U.S. Army Corps of Engineers would eliminate or minimize potential impacts so they would not affect water quality. However, the multitude of controls must be properly enforced throughout all construction activities.

3.3.3 Mitigation

During the design and construction stages of replacing the culvert at Rock Creek, close coordination with the Inyo National Forest, the California Department of Fish and Game and Lahontan Regional Water Quality Control Board would be required. The proposed work would require measures to protect the water quality of the creek and the existing riparian vegetation found along the creek. In areas where riparian impacts are unavoidable, project design measures would be used to keep project impacts to a minimum. Throughout the project, Caltrans Best Management Practices would be followed and implemented to ensure compliance with state and federal water quality regulations.

Because the total site disturbance exceeds 0.4 hectares (1 acre), a Storm Water Pollution Prevention Plan would be required.

All newly constructed cross drainage facilities would be designed to carry 100-year flow.

The Statewide National Pollutant Discharge Elimination System construction permit, the Streambed Alteration Agreement pursuant to the California Department of Fish and Game code 1600 et. sec., and the Caltrans standard specifications would provide sufficient controls to prevent any short-term impacts during construction. Any new culvert design would include measures to improve and facilitate fish passage. In addition, a 404 Nationwide Permit for temporary impacts to "other waters of the U.S." from the U.S. Army Corps of Engineers is required.

The rock slope protection to be placed for the new culverts would require clean or washed material to minimize adding sediment to the creeks. After the old culverts are removed, the creek slopes would be re-vegetated and re-contoured to conform to the existing banks.

The culvert would be constructed, maintained, and placed in operation, so that sufficient water shall be allowed to pass between downstream and upstream locations to maintain aquatic life in as near-original conditions as would be maintained without such a structure in the creek.

When work in the creek is unavoidable, the entire stream flow would be diverted around the work area by a temporary barrier and/or diversion. Channel banks or barriers would not be made of earth or other substances subject to erosion unless first enclosed by sheet piling, rock riprap, or other protective material. The enclosure and the supportive material would be removed when the work is completed. The removal would normally proceed from downstream in an upstream direction.

Silty/turbid water would not be discharged into the stream. Such water would be settled, filtered, or otherwise treated before discharge. This requires that silt filter barrier material, sedimentation basins, or sediment curtains be placed so silt or other harmful materials are not allowed to pass downstream during project activities.

Construction of the new culvert and removal of the existing culvert would be completed without deposit of construction material, pollutants, or debris into the creek. Water containing mud, silt, or other pollutants from aggregate washing or any other construction activity would not be allowed to enter the stream or to be placed in locations that may be subjected to high storm flows. Areas of disturbed soils that slope toward a stream, such as roadway shoulder areas, would be stabilized to reduce

erosion potential. Where possible, stabilization would include the re-planting of stripped or exposed areas with vegetation native to the area. The use of native seed and straw would be acceptable in these areas. Where suitable vegetation cannot reasonably be expected to become established, materials that will not erode may be used for such stabilization.

Spoil sites would not be located within the creeks, where spoil could be washed back into a stream, or where it would cover aquatic or riparian vegetation. Any materials placed in seasonally dry portions of a creek that could be washed downstream or could be harmful to aquatic life would be removed from the project site before inundation by high flows.

Staging/storage areas for equipment and materials would be located outside of the creeks or their associated riparian habitat areas. Any equipment or vehicles driven and/or operated within or adjacent to the creeks shall be checked and maintained daily to prevent leaks of materials that if introduced to water could be harmful to aquatic life. No equipment maintenance would be done within or near any creek channel or waters where petroleum products or other pollutants from the equipment may enter these areas under any flow.

No debris, soil, silt, sand bark, slash, sawdust, rubbish, cement or concrete or related washings, oil or petroleum products, or other organic or earthen material from any maintenance, construction, or associated activity of whatever nature would be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters. When operations are completed, any excess materials or debris would be removed from the work area. No rubbish shall be deposited within 50 meters (150 feet) of the high water mark.

In the event of a pollutant spill during construction the clean up would begin immediately. The operator would notify Caltrans immediately of any spills and would consult with Caltrans regarding clean-up procedures and requirements.

Compliance with the above regulations and standards would protect water quality in the project area.

3.4 Floodplain

Executive Order 11988 (Floodplain Management) directs all federal agencies to refrain from conducting, supporting, or allowing actions in floodplains unless it is the

only practicable alternative. The Federal Highway Administration requirements for compliance are outlined in 23 CFR 650 subpart A.

The 100-year floodplain is defined as "the area subject to flooding by the flood or tide having a one percent chance of being exceeded in any given year." An encroachment is defined as "an action within the limits of the 100-year floodplain."

3.4.1 Affected Environment

A Floodplain Evaluation Report (see Appendix E) and Location Hydraulic Studies (see Appendix F) were completed for the proposed project. The project is located at elevations ranging from 1,372 meters (4,500 feet) to 2,160 meters (7,100 feet). The average annual precipitation in the area ranges from 250 to 380 millimeters (10 to 15 inches), occurring as snowfall and rainfall.

Rock Creek is a perennial stream that flows under the highway at about kilometer post 14.2 (post mile 9.2). The existing drainage structure is a 1.5-meter by 1.5-meter (5-foot by 5-foot) reinforced concrete box culvert with a capacity of 8.5 cubic meters per second (300 cubic feet per second). The drainage basin above the highway at this point is about 114 square kilometers (44 square miles). The Rock Creek drainage basin extends up to an elevation of over 4,000 meters (13,000 feet). The estimated 100-year flow for Rock Creek at this location is less than 8.5 cubic meters per second (300 cubic feet per second).

The other drainage culverts receive flow from minor drainage basins and do not flow year around.

3.4.2 Impacts

All drainage facilities would be designed to convey the 100-year flow. The proposed action would not have the effect of raising the base (100-year) floodwater surface elevation within the project and is not considered a major encroachment on any floodplain. New drainage facilities installed for the new frontage road would be designed to convey the estimated 100-year flows.

3.4.3 Mitigation

No mitigation measures would be necessary.

3.5 Threatened and Endangered Species

Caltrans biologists conducted biological evaluations of the proposed project area during spring, summer, and fall of 2000 and 2001. The California Natural Diversity Database, as well as standard field guides and texts on sensitive and non-sensitive biological resources, were searched before field surveys. The USGS 7.5-minute quads for the project area are Rovana, Casa Diablo Mt and Tom's Place.

3.5.1 Affected Environment

The study area varies in topography from the valley floor (at the base of Sherwin Grade) to the higher elevation of the northern end of the project. The project is located at the extreme southern end of the Long Valley Caldera containing the Crowley Lake drainage system. The existing biological communities do not show a great diversity in part because of nutrient-poor soils and a general lack of available water in the project area. The ground beneath the surface is composed of a variety of bedrock materials, which have been subjected to weathering by water and ice, but are largely unaffected by chemical weathering. Bedrock in the study area is composed of igneous rocks, which are formed when magma (liquid rock material) cools below the earth's surface or when lava cools above ground. The soil is composed of loose pumice, decomposed granite, Bishop tuff (rock formed from an ancient volcano), and other volcanic sources.

Relic drainage features are short, rocky, and sandy, and appear to be the result of hydraulic changes to the existing landscape when there was an abundance of water. During the last 100 years, biological diversity has been altered from historical levels primarily through water diversions, lack of available nutrients, and fire suppression.

Climate in the study area is the result of Mediterranean, Basin, and Range type influences, consisting of dry, hot summers with occasional afternoon thundershowers and cool, moist winters. The eastern Sierra's steep slope strongly influences temperature and precipitation patterns, which can vary greatly over short distances. In general, temperature decreases and precipitation increases with an increase in elevation.

Table 3.1 presents endangered and threatened species that may occur in the project area, as determined by the U.S. Fish and Wildlife Service (May 7, 2003, see Appendix H). Of the species on the list, three were classified as "endangered" and one was classified as "threatened." In addition, the yellow-billed cuckoo is listed as a

"candidate" species. Table 3.1 depicts the species mentioned above. The list contains four birds and one fish classified as "endangered," "threatened," or "candidate."

Table 3.1 Special-Status Species

COMMON NAME	SPECIES	STATUS
BIRDS		
Least Bell's vireo	*Vireo belli pusillus*	Endangered
Southwestern willow flycatcher	*Empidonax traillii extimus*	Endangered
Bald Eagle	*Haliaeetus leucocephalus*	Threatened
Yellow-billed cuckoo	*Coccyzus americanus*	Candidate
FISHES		
Owens Valley Tui Chub	*Gila bicolor snyderi*	Endangered

3.5.2 Impacts

The project would result in the permanent disturbance of approximately 60.7 hectares (150 acres) of habitat, broken down as follows: 19.8 hectares (49 acres) Shadscale/Sagebrush Scrub, 10.1 hectares (25 acres) Pinyon/Jeffrey Woodland, and 30.8 hectares (76 acres) of Bitterbrush scrub-dominated pumice flats.

During the course of biological surveys, special attention was given to all the species listed as potentially occurring within the project vicinity. While the loss of habitat may result in the displacement of some wildlife species, it would not affect any federally or state-listed special-status species within the project limits. The habitat adjacent to the project area would adequately serve as refuge and cover for any wildlife displaced by the project. The project should have no serious consequences for local wildlife populations within the project limits.

No resident nesting state-listed species were observed during the surveys for this project, and therefore no temporary or permanent impacts to state-listed species are expected. However, since migratory state-listed birds could potentially travel through the project area at any given time, a Caltrans biologist would be monitoring ground-disturbing activities throughout the proposed construction season.

The proposed project is not expected to adversely affect mule deer habitat. No fawning areas have been identified within the project limits.

3.5.3 Mitigation

Throughout the project, Caltrans Best Management Practices would be followed and implemented to ensure compliance with state and federal regulations. In addition to Best Management Practices, it is recommended that the design of the project's cut and fill slopes take into consideration the steepness of the slopes and other biological constraints, which could influence re-vegetation success on these dry desert slopes. Identified locations should be further evaluated and modified to ensure the best possible re-vegetation scenarios.

Caltrans standard Duff Provision would be applied to the proposed project area in efforts to mitigate temporary and permanent impacts to natural vegetation. Areas of disturbance would be kept to the minimal area necessary to construct the project. Areas of temporary disturbance would be re-planted using a combination of grass, shrub, and tree species native to the area. This would be spelled out in the contract special provisions and should be done in coordination between the Project Biologist and the District Landscape Architect.

Caltrans will implement Executive Order 13112 *Invasive Plant Species* by directing the construction contractor to follow certain procedures prior to and during the construction (clearing and grubbing) and re-vegetation phases of the project. Some of these procedures include but are not limited to requiring the contractor to obtain U.S. Department of Agriculture "certified" weed-free straw and seeds to prevent a localized exotic weed species introduction and/or outbreak within the project area. Other methods deemed highly successful in preventing the spread of invasive plants include washing and/or steam cleaning mud from tires and tracks of heavy equipment prior to their use.

Special provisions for migratory birds would be included into the contract special provisions (see Appendix D of this document). Caltrans recognizes that certain migratory birds may try to nest on structures or in trees, shrubs or other vegetation within the project limits. However, no large mature Jeffrey Pines (which could be used by raptors as nesting or roosting trees) are planned for removal at this time. Should this change, trees would be removed outside of the preferred nesting seasons of any sensitive species. Any large tree removal would occur only after securing permission from the current landowner (i.e., the U.S. Forest Service) and in

consultation with U.S. Forest Service biologists. If required, the trees would be removed in the winter months, typically between November 1 through February 28. Caltrans would ensure the contractor adheres to the Migratory Birds Special Provisions. The contractor shall notify the resident engineer and the biologist 15 working days prior to beginning any ground- or vegetation-disturbing work between February 15 and September 1. The engineer will request a pre-construction survey by the Caltrans biologist prior to the beginning of work between February 15 and September 1. If evidence of nesting birds is discovered, the contractor shall avoid these locations until the birds and/or their young have left their nests. If evidence of migratory bird nesting is discovered after beginning work, the contractor shall immediately stop work and notify the resident engineer and/or project biologist.

3.6 Historic and Archaeological Preservation

3.6.1 Affected Environment

The nature of the proposed project and the involvement of a federal agency (the Federal Highway Administration) require compliance with Section 106 of the National Historic Preservation Act, as codified at 36 CFR § 800. Section 106 of the National Historic Preservation Act mandates federal agencies to consider the effects of their projects on historic properties (resources eligible or potentially eligible for the National Register of Historic Places). The Historic Property Survey Report documents efforts to identify historic properties within the project area and seek concurrence between the Federal Highway Administration and the State Historic Preservation Officer regarding the National Register of Historic Places eligibility or ineligibility of identified resources.

Caltrans conducted cultural resource studies in the project area between 1999 and 2002. Archaeological field surveys were done in May and June 2001. Although most of the Area of Potential Effects was previously surveyed as part of the Transportation Enhancement Activities Project (Basgall and Richman 1998), the extent of this work was deemed inadequate for the purposes of the current project. Consequently, archaeological surveys of the previously surveyed lands and additional unsurveyed portions of the current project area were conducted. An additional survey was conducted in April 2002 because of concerns about utility relocation in the northern portion of the project. A supplemental archaeological survey report was completed in May 2002.

Phase II archaeological excavations were performed in August 2001. The Phase II studies evaluated 15 archaeological sites for National Register of Historic Places eligibility in compliance with Section 106 of the National Historic Preservation Act.

The State Historic Preservation Officer has concurred with Federal Highway Administration's findings regarding eligibility of the studied properties in the project area on May 30, 2003 and July 2, 2003 (Appendix G).

3.6.2 Impacts

Cultural resource studies have identified 32 archaeological sites within the Area of Potential Effects for the proposed project. There are no architectural resources or bridges within the Area of Potential Effects. The only resource that has been previously found eligible for the National Register of Historic Places is site CA-MNO-2433/H. Seventeen sites are located within the Area of Potential Effects, but lie outside the Area of Direct Impact. For this project, Caltrans considers these sites as eligible properties and modified the project to avoid any adverse effects to these potential historic properties pursuant to 36 CFR 800.5(b). After an evaluation of the remaining historic properties identified in the Area of Potential Effects, the following determinations were made:

- **Archaeological sites eligible for the National Register of Historic Places under Criterion D[1]:** CA-MNO-2433/H, CA-MNO-3465, CA-MNO-3490

- **Archaeological sites not eligible for the National Register of Historic Places:** CA-MNO-3463, CA-MNO-3464, CA-MNO-3467, CA-MNO-3468, CA-MNO-3470, CA-MNO-3471, CA-MNO-3472, CA-MNO-3474, CA-MNO-3478, CA-MNO-3480, CA-MNO-3486, CA-MNO-3492

- **Archaeological sites considered eligible for the purpose of this project:** CA-MNO-2432, CA-MNO-3462, CA-MNO-3466, CA-MNO-3473, CA-MNO-3479, CA-MNO-3481, CA-MNO-3482, CA-MNO-3483, CA-MNO-3484, CA-MNO-3485, CA-MNO-3487, CA-MNO-3488/H, CA-MNO-3489, CA-MNO-3491, CA-MNO-3493, CA-INY-5939, P-26-3957

[1] *A cultural site that is determined to be eligible for the National Register of Historic Places under Criterion D has the potential to contribute important information about the prehistory and history of the region.*

- **Properties eligible for the National Register of Historic Places:** Three historic properties are eligible for inclusion to the National Register of Historic Places based on criteria referenced in 36 CFR 63: CA-MNO-2433/H, CA-MNO-3465, and CA-MNO-3490. The main criterion by which prehistoric archaeological resources are considered eligible is based on whether the property can provide information of value in addressing important research issues in prehistory. There are also 17 unevaluated, potentially historic properties within the Area of Potential Effects, but outside the Area of Direct Impact. These archaeological sites are considered to be historic properties for the purposes of this project only.

CA-MNO-2433/H

Although the northern boundaries of the site have not been defined, portions of site CA-MNO-2433/H are part of an extensive (170,000 square meters (1,829,865 square feet) or 17 hectares (42 acres)) and diverse prehistoric and early historic site located in the Pinyon Woodland along the Sherwin Grade. The site was originally recorded and tested in 1988 and revisited in 1996.

In the evaluated portions, this site contains at least nine rock rings, at least 10 discrete burn features that likely represent pinyon-processing refuse, at least 10 discrete lithic scatters that represent single-reduction flintknapping events, several bedrock milling features, and a large assemblage of flaked stone from a range of different time periods.

Site CA-MNO-2433/H was previously found eligible for the National Register of Historic Places under Criterion D. Phase II studies performed for this project determined that the portions of the site that lie within and adjacent to the Caltrans right-of-way are contributing elements to the overall eligibility of the site. Further consultation with the State Historic Preservation Officer (July 2004) determined that these deposits retain integrity and have demonstrated the potential to contribute information about the prehistory of the area.

The Sherwin Summit Rehabilitation Project would directly affect approximately 10 percent or 1.7 hectares (4.2 acres) (17,000 square meters (182,986 square feet)) of the site. The project would likely alter the characteristics that qualify the property for inclusion in the National Register of Historic Places in a manner that would diminish the integrity of the property. Therefore, the project will have an adverse effect on this historic property.

CA-MNO-3465

Prehistoric site CA-MNO-3465 consists of a sparse but expansive scatter of flakes and tools made from volcanic glass and a small assemblage of groundstone, covering an area of over 20,998 square meters (226,020 square feet) or 2.1 hectares (5.2 acres). The site was first described and recorded during the survey phase of this project.

CA-MNO-3465 is eligible for the National Register of Historic Places under Criterion D because the site possesses the types and quantities of artifacts that reflect patterns that contribute to our knowledge of stone tool technologies of eastern California.

Further consultation with the State Historic Preservation Officer (July 2004) determined that two Loci (portions of the site) are contributing elements to the overall eligibility of the site.

The project would directly affect 3,600 square meters (38,750 square feet), or approximately 17 percent, of the site area. Due to the sparcity of artifacts and/or features identified in the Area of Direct Impact, the project will not adversely effect the qualities that contribute to the eligibility of the historic property.

CA-MNO-3490

Prehistoric site CA-MNO-3490, located in the Desert Scrub ecozone, was used as a habitation and logistic camp spanning an area of 33,750 square meters (363,282 square feet), or 3.4 hectares (8.3 acres). The site contains a substantial range and diversity of tools including projectile points, bifaces, flake tools, formed tools, handstones, millingstones, and ceramics. This diversity is much greater than any other site within the project area and speaks to the range of research questions that could potentially be addressed with the assemblage. More important is the presence of at least two small rockshelters and what appears to be an early Holocene lithic scatter, though the former is not associated with the latter.

Future research at this site has the potential to contribute important information to address 1) stone tool technology and exchange; 2) early land use patterns and the origin of the intensive pinyon processing; and 3) past environmental reconstruction. Therefore, CA-MNO-3490 is eligible to the National Register of Historic Places under Criterion D on the basis that the site exhibits characteristics to address research questions considered important in regional research. Further consultation with the

State Historic Preservation Officer (July 2004) determined the Lithic scatter inside the Caltrans right-of-way is a contributing element to the overall eligibility of the site.

The project would directly affect 1,800 square meters (19,375 square feet) or approximately 5 percent of the site and likely alter the characteristics that qualify the property for inclusion in the National Register of Historic Places in a manner that would diminish the integrity of the property. Therefore, the project may have an adverse effect on prehistoric site CA-MNO-3490.

3.6.3 Mitigation

Avoidance is the preferred method of treating sites eligible for the National Register of Historic Places. However, because of the high number of cultural sites and the nature of the project, this does not seem possible in many instances. When possible, avoidance was implemented.

A Finding of Adverse Effect and Memorandum of Agreement, along with a Treatment Plan, have been prepared. The terms of the Memorandum of Agreement negotiated between the Federal Highway Administration and the State Historic Preservation Officer state that the project will have an adverse effect on the following two sites: CA-MNO-2433/H and CA-MNO-3490, and a No Adverse Effect on the remaining 17 sites and CA-MNO-3465. The adverse effects to the sites would be mitigated by a data recovery program, establishment of Environmental Sensitive Areas around the remaining portions of the sites, and preparation of a technical report. Some minor project redesign to minimize impacts has occurred, but because of the location of the sites and the type of project, impacts were not completely avoidable. The Treatment Plan was circulated to the Native American community, the Inyo National Forest Service, the Bureau of Land Management, and the State Historic Preservation Officer for review and comment before final environmental document approval.

During the review of the Draft Memorandum of Agreement and Treatment Plan the State Historic Preservation Officer requested additional information (see Appendix G for the July 15, 2004 letter) and clarification in regards to non-contributing elements that resulted in the submittal of a supplemental Historic Property Survey Report (September 2004). This led to the removal of site CA-MNO-3475 from the Area of Potential Effects of this project reducing the number from 21 (as stated in SHPO's letter from July 15, 2004) eligible sites to 20. Concurrence from the State Historic Preservation Officer was received for the supplemental Historic Property Survey

Report, the Finding of Adverse Effect and Data Recovery Plan through the signed Memorandum of Agreement between the Federal Highway Administration and the State Historic Preservation Officer (November 5, 2004). A copy is included in Appendix K.

As outlined in the Treatment Plan, additional cultural work will be necessary before construction. If buried cultural materials are discovered during construction, Caltrans policy states that work must halt in the vicinity of the find until a qualified archaeologist can assess them. In addition:

- Recorded portions of sites outside the Area of Direct Impact would be designated as Environmental Sensitive Areas during construction.
- Sites considered eligible for the National Register of Historic Places for the purpose of this project would be designated as Environmental Sensitive Areas during construction.
- Archaeological monitoring would also be performed during construction as insurance against unanticipated effects upon the sites.

If human remains are unearthed during construction, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the county coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code Section 5097.98. In addition, the land managing agency's archaeologist must be notified.

3.7 Paleontology

A record search of the June 1, 2000 paleontological database showed only low sensitivity for the limits of this project. Therefore, no impacts are anticipated.

3.8 Air Quality

3.8.1 Affected Environment

The Clean Air Act as amended in 1990 is the federal law that governs air quality. Its counterpart in California is the California Clean Air Act of 1988. Under these laws, standards are set for the quantity of pollutants that can be in the air, such as carbon monoxide, nitrous oxide, ozone, and particulate matter. In the project area, the Great Basin Unified Air Pollution Control District administers air quality regulations developed at the federal, state, and local levels.

Data obtained from the Great Basin Unified Air Pollution Control District indicate the overall air quality in this region is very good. Inyo County is a non-attainment area for particulate matter under 10 micrometers in diameter (PM_{10}). This means that PM_{10} is the only pollutant that exceeds federal and state air quality standards within Owens Valley. The primary source of PM_{10} is dust from areas along the Owens River and/or from Owens Lake (dry) during wind periods that exceed 16 kilometers per hour (10 miles per hour). Particulate matter from wood stove smoke can also contribute to the problem during winter months. The Great Basin Air Pollution Control District has determined the area's transportation system is not a major contributor to the PM_{10} issue.

3.8.2 Impacts

No long-term impacts to air quality are expected at the regional or project level. According the Transportation Conformity Rule (40 CFR Section 93.126) rehabilitation projects such as this project may be implemented without a conforming transportation plan and Transportation Improvement Plan. Further air quality studies are, therefore, not required.

With the exception of PM_{10}, the area within Inyo County is in full conformity with both state and federal air quality standards. The Great Basin Air Pollution Control District has prepared a plan to control the PM_{10} issues. Inyo County's Regional Transportation Plans, accompanied by an approved environmental impact report, lists the Sherwin Summit project as meeting all regional air quality standards. The Sherwin Summit project is included in the 2002 Federal State Transportation Improvement Program for Mono County.

The Caltrans "Microscale Screening Procedures for Carbon Monoxide" has been performed for this project indicating there is less than a 1 part per million increase in either the one-hour or eight-hour carbon monoxide concentrations throughout the 20-year life expectancy of the roadway at a distance equivalent to the right-of-way lines. With background levels estimated at 4 parts per million or less, carbon monoxide concentrations are well below state and federal standards. It has been shown that the small, less than 1 part per million increase, is caused by "normal" traffic growth and is not directly related to the roadway improvement itself. These results indicate that a full air study is not required for this project.

3.8.3 Mitigation

Enforcement of Caltrans' Standard Specifications (see Section 10 of the Standard Specifications, titled "Dust Control," as well as Section 7, part 7-1.01F, titled "Legal Responsibilities: Air Pollution Control") and Great Basin Air Pollution Control District's prohibitory rules that apply to activities mentioned in the project description (specifically, rule 400–Opacity, rule 401–Fugitive Dust, and rule 402–Nuisance[2]) would minimize any air quality concerns.

These rules describe the reasonable precautions that should be taken to prevent particulate matter from being airborne. Some of the listed dust control strategies are as follows: the use, where possible, of water or chemicals for dust control; the application of asphalt, oil, water, or suitable chemicals on dirt roads, material stockpiles, and other surfaces that can give rise to airborne dusts; the use of water, chemicals, chuting, venting, or other precautions to prevent particulate matter from becoming airborne; and the maintenance of roadways in a clean condition.

In addition, contractors would control dust issues by having personnel on-call and taking appropriate action throughout the length of the contract including on weekends. Caltrans would stress the importance of dust-related problems during the pre-construction meetings with the contractor. In addition, the contractor would be advised to perform water treatment of exposed areas on the last workday before a weekend or holiday.

3.9 Noise and Hazardous Waste Sites, Aerially Deposited Lead

3.9.1 Affected Environment

The Build Alternative of this proposed project would have little or no impact to existing noise levels or hazardous waste sites.

Noise

The project would not increase noise levels in the area, and no sensitive receptors (such as homes, businesses, or parks) are located in the project limits.

[2] *Ref: http://www.arb.ca.gov/drdb/gbu/cur.htm*

Hazardous Waste

No hazardous waste sites are currently known to exist in the project study area. If hazardous waste were unexpectedly encountered during construction, the materials would be disposed of according to local, state, and federal laws and regulations.

Aerially Deposited Lead

A site inspection done on December 27, 2000 determined that an aerially deposited lead study is not warranted for this project. Hazardous levels of aerially deposited lead would not be found in the thin soil over the rock. High winds and snowy conditions prevent accumulation of hazardous levels of aerially deposited lead. However, precaution should be taken during construction to prevent or minimize exposure to potentially hazardous substances by using proper dust control measures.

3.9.2 Impacts

No impacts are expected.

3.9.3 Mitigation

No mitigation measures would be necessary.

3.10 Visual

3.10.1 Affected Environment

The project area is a designated State Scenic Highway. One half of the project area is within the Inyo National Forest boundary. This route makes an impressive elevation change, starting at 785 meters (2,575 feet) and cresting the Sherwin Summit at 2,134 meters (7,000 feet) from which the grade gets its name. The steepness of the grade approaches 6 percent for 13 kilometers (8 miles).

The route goes through two distinct landscape units visible from the highway corridor: the Volcanic Tablelands, with forested areas at the higher elevations, and the Rock Creek drainage.

The regional landscape consists of the topography, land cover, and manmade elements that set it apart from other regional landscapes. The visual character of a region’s landscape features and the relationships between those features form the basis of the visual interpretation of the region.

Dominating the regional landscape, the rugged glacially carved Sierra Nevada Mountains rise practically from the edge of the highway, culminating in Mount Tom (4,161 meters/13,652 feet) and the massive granite escarpment of the Wheeler Crest (3,353 meters/11,000 feet). Across the valley to the east is the White Mountain range, home of the Ancient Bristlecone Forest and White Mountain peak (4,342 meters/14,246 feet), the third highest point in California.

U.S. Highway 395 climbs and winds its way between these two mountain ranges across an area known as the Volcanic Tablelands. The tablelands are part of a 1,502-square-kilometer (580-square-mile) area covered by a series of volcanic ash flows from the eruption of the Long Valley caldera more than 700,000 years ago. They are composed of several layers of salmon-colored pumice known as Bishop tuff. Over thousands of years, wind, rain and melting snow have eroded the softer pumice, carving steep gorges and exposing rock outcroppings. These tablelands form the northern border of the Owens Valley and slope down to the pastures of Round Valley at the southern end of the project limits.

3.10.2 Impacts

This project would have little impact on the visual quality of the surrounding regional view. The widening of the roadway may actually allow the motorist a clearer view of the distant mountain ranges, and improvement of standard shoulder widths would provide motorists a place to safely pull over and stop.

Much of the visual impact from this project would result from the disturbance and removal of the native vegetation of the tablelands that will occur during construction. Reestablishment of native sage scrub and grasses may take up to five years and, for native trees, up to 25 or more years. Measures to protect and preserve existing native vegetation would greatly enhance the visual quality after construction.

The project would result in the loss and degradation of rock outcroppings. The visual analysis of the area indicated that the rock outcroppings located from kilometer posts R8.85 to R9.01 (post miles R5.5 to R5.6) are a Designated Scenic Resource as defined in Section 21084(b) of the California Environmental Quality Act statutes. This determination is based on the rock outcroppings' contribution to the rural visual quality of the area and for their effect on the spatial characteristics of the corridor. The rock outcroppings and their Pinyon vegetation provide visual interest and are consistent with the look of a rural highway. Removal of these rock outcroppings would result in an adverse visual impact for the highway user. Measures to protect

selected rock groupings in place on slopes and in median areas (where appropriate) would help blend the project site into the local landscape. The establishment and maintenance of the indigenous rock is an integral aspect of reinforcing the natural character of the tablelands.

Throughout the project limits, there a number of major cut and fill sections expected for the shoulder widening work and the curve corrections. Approximately 10% of the project area on the east side and 6% of the project area on the west side of the northbound lanes in the Phase I section (kilometer posts R207.24/R208.4 (post miles R128.8/R129.5) in Inyo County to kilometer post 11.13 (post mile 6.92) in Mono County) may have major cuts and fills. The Phase II section (kilometer post 11.13 (post mile 6.92) to kilometer post R16.6 (post mile R10.3)) would have major cut and fills in 18% of the east side and 15% are of the west side of U.S. Highway 395.

While smaller cut and fill sections occur throughout the entire project, about 14 areas potentially create bigger impacts and require additional right-of-way of various sizes, depending on the slope chosen in each section.

- Kilometer post 0.95 (post mile 0.59): cut section, about 30 meters (98 feet) outside the current right-of-way for a length of about 274 meters (900 feet) on the east side of the northbound lanes with a 4:1 slope.
- Kilometer post 3.43 (post mile 2.13): at the east side of the northbound lanes, a fill section requires area of about 31 meters (102 feet) outside the current right-of-way with a length of approximately 43 meters (141 feet) for a 4:1 slope.
- Kilometer post 5.1 (post mile 3.16): a fill section is required on the east side of the northbound lanes creating a need for additional right-of-way of various widths extending a maximum of 61 meters (200 feet) outside the existing right-of-way of a length of approximately 487 meters (1,598 feet).
- Between kilometer posts 5.8 and 7.29 (post miles 3.6 and 4.53): two cut and one fill areas have been identified on the east side of the northbound lanes. The largest area is located around kilometer post 6.45 (post mile 4.01), extending approximately 85 meters (279 feet) outside the existing right-of-way, for a length of approximately 425 meters (1,394 feet). The other two areas are substantially smaller.
- Kilometer post 9.11 (post mile 5.66): two cut sections require additional right-of-way on the east side of the northbound lanes, extending approximately 39 meters

(128 feet) outside of the existing right-of-way, for a length of about 200 meters (656 feet).

- Kilometer post 10.06 (post mile 6.25): a small area of approximately 36 meters (118 feet) outside the right-of-way, extending for about 122 meters (400 feet) for a cut section.
- Kilometer post 10.9 (post mile 6.78): at the beginning of Phase II and the undivided section of this project, a number of wide predominately cut sections would be necessary on the east and west side of U.S. Highway 395, ranging from a few meters to over 150 meters (492 feet) outside the existing right-of-way. The biggest sections are on the west side at approximately kilometer post 11.27 (post mile 7.0), on the east side from kilometer posts 11.43 to 11.9 (post miles 7.1 to 7.4), at kilometer posts 13.5 and 13.8 (post miles 8.4 and 8.6) on the east side, at kilometer post 14.6 (post mile 9.1) on the east side and kilometer post 15.1 (post mile 9.4) on the west side. The extent of the cut and fill sections mentioned were described for the worst case scenario, the 4:1 slopes.

The northern section of the proposed frontage road would be located in generally flat terrain connecting to Rock Creek Road. The terrain at the southern limits where a connection with Lower Rock Creek Road would be created is very steep, and the design would, where possible, minimize the cut and fill sections in this area.

3.10.3 Mitigation

The altering of any landform either by cuts or fills has the potential to create permanent visual impacts. Much of the existing unvegetated scars were created by the original road construction. Because this new widening project would closely follow the existing alignment with some centerline shift to correct curves and sight distances, it would visually intrude further into the natural hillsides and gorges. Measures to blend the alterations with existing topography would help to restore the scenic quality. This may involve the construction of walls to limit the impact of fill slopes or to reduce the size of cuts. Impacts can be minimized in some areas by creating 2:1 or 3:1 slopes instead of the standard 4:1 slopes. In areas where the slopes would be greater than 4:1, installation of guardrail might be required.

To maintain these visual quality elements and to decrease the amount of negative visual impact caused by the project, the following actions are recommended:

1. Program and implement a separate project to replant native trees and shrubs to improve and restore visual quality in the project area. The project shall include a combination of seeding and container planting of native vegetation. A minimum 3-year plant establishment period would be included to assure the success of the revegetation. Replacement of affected trees and shrubs with native plant species shall be strategically located to blend with and enhance the native plant communities.
2. When retaining walls are used, height should be minimized. Consideration should be given to the selection of retaining wall types, materials, colors, textures and forms to blend with the adjacent natural landscape components (soil, vegetation, and rock).
3. Cut and fill slopes would be contour-graded to a non-uniform profile to blend with existing adjacent slopes. Slope grades would be constructed to facilitate planting and provide erosion control and ease of maintenance. Increased slope rounding at the top and bottom of cuts and fills, along with liberal slope variances, would create more natural connections to existing grades. Appearance of contour grading and slope rounding shall be determined by or approved in cooperation with a Caltrans Landscape Architecture representative.
4. Grade slopes to leave natural rock outcroppings in place. “Varnish” treatment of newly exposed rock outcroppings to make them look weathered to blend with adjacent outcroppings. Appearance of varnished rock shall be determined by or approved in cooperation with a Caltrans Landscape Architecture representative.
5. Grade new and existing cuts to existing ground levels where it will open views to improve visual quality.
6. Consider the use of metal-beam guardrail or other safety methods to preserve selected mature trees and rock outcroppings in lieu of recovery zone areas.
7. Collect and store topsoil/duff for placement on disturbed areas before replanting.

With the implementation of the stated mitigation methods, the visual impacts of this project can be reduced and would not result in substantial changes in overall visual quality.

3.11 Geology

3.11.1 Affected Environment

The road cut, the *Big Pumice Cut*, is documented in several publications as a classic example of "superposition," meaning the oldest layer of rock is on the bottom and the youngest on the top. Therefore, it is one of the best chronological benchmarks for old glaciers in North America. It is used by educators as a college field trip stop, with the road cut described as a feature that helps an investigator determine the timing of a geological event prior to any written history. This geological feature is located on the east side of U.S. Highway 395 between kilometer posts 14.5 and 14.8 (post miles 9.02 to 9.22) (see Figure 3-1).

When U.S. Highway 395 was designed, the purpose was to provide a grade gentle enough for truck traffic. The design reduced the amount of cut and fill by following the meander of Rock Creek for part of the climb to the top of the Long Valley caldera plateau. The "road cut" cuts across a glacial till deposit (rock materials left by a melting glacier) overlain by volcanic debris, which is in turn overlain by more glacial till deposits.

The road cut has a relatively high slope angle. The soil is well graded, with rock fragments ranging from silt-size to half-meter (20-inch) boulders. Boulders and large cobbles are consistently found in the glacial till deposit.

3.11.2 Impacts

During preparation of the geotechnical report, ground-penetrating radar studies were conducted to determine the extent of the geological formation in the field. In addition, during the public comment period, universities, geologists and geological societies were contacted and provided comments on the proposed project. Studies showed that the hill structure appears to be consistent in form to at least 30 meters (100 feet) perpendicular to the top of the cut face. Laying the slope back to a shallower angle would possibly produce several benefits in addition to the design benefit. A new cut face would reveal more of the detail of the events surrounding the explosion that left these deposits on the glacial till. A shallower cut face would also reduce the erosion and preserve the detail exposed for a much longer time.

Tests show the same geological features would be visible even if an angled cut as far back as 160 meters (525 feet) from the centerline of the current roadway to the top of

the *Pumice Cut* is necessary. Because the current cut is weathered, this would result in better visibility of the contact between the Sherwin Till and the Bishop Tuff.

3.11.3 Mitigation

No mitigation measures would be necessary.

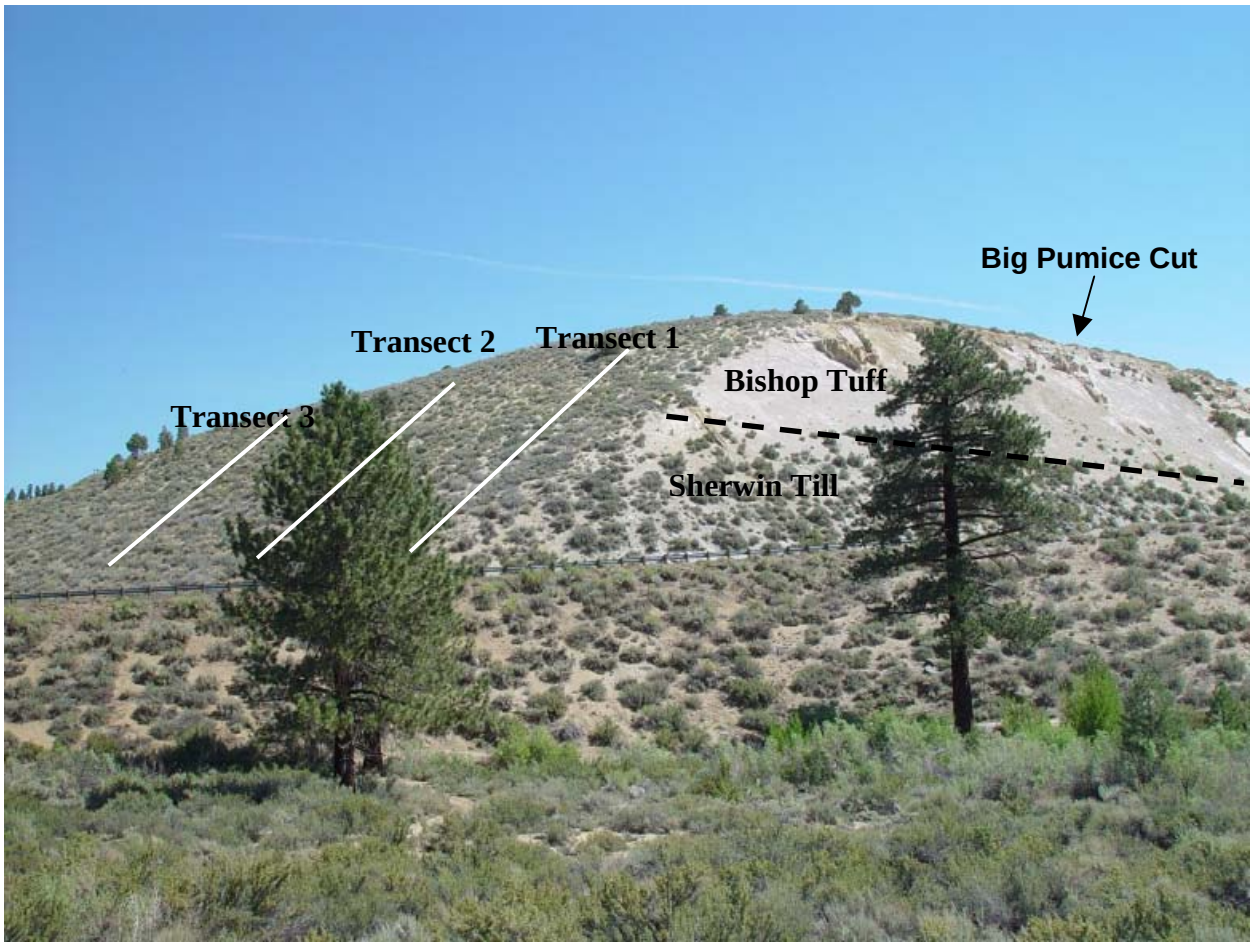

Figure 3-1 shows the location of the geophysical survey transects at kilometer post 14.6 (post mile 9.1). Transects 1, 2 and 3 are located at 14 meters, 50 meters and 95 meters (46 feet, 164 feet and 312 feet) from the edge of the cut, respectively. The dashed line denotes the approximate location of contact between Sherwin Till and Bishop Tuff.

Note: Survey transects not drawn to scale.

Figure 3-1 Big Pumice Cut

Chapter 4 Cumulative Impacts

Cumulative impacts can result from individually minor, but collectively substantial, effects of various projects taking place over a period of time. No other projects are currently planned in the immediate vicinity of this project.

Because the proposed project is a rehabilitation of an existing roadway, it is not expected to substantially accelerate or induce growth in the region or cause cumulative impacts. Local planning and land use would not be affected by the construction of the frontage road or the closure of Lower Rock Creek Road.

Chapter 5 List of Preparers

This Environmental Assessment/Initial Study was prepared by the Central Region of the California Department of Transportation (Caltrans). The following Caltrans staff prepared this Environmental Assessment/Initial Study:

Kathryn Boltz, Research Writer. B.A., Sociology, Ohio State University; 16 years writing experience. Contribution: Edited Environmental Assessment/Initial Study.

Truman Denio, Hydraulics Engineer, Design Engineer P.E.. B.S., Civil Engineering, University of California, Davis; Registered Civil Engineer in 1982; 24 years experience in civil engineering public works projects, including 13 years Hydrology/Hydraulics. Contribution: Hydraulics Study.

Mike Donahue, Chief Southern Sierra Environmental Branch, Senior Environmental Planner. B.A., Geography, California State University, Fresno; 29 years urban and environmental planning experience. Contribution: Environmental Manager.

Ken Doran, Engineering Geologist. M.A., Geology, California State University, Fresno, B.S., Geology, California State University, Fresno; 3 years hazardous waste assessment experience. Contribution: Conducted preliminary geological study.

Andy Gillem, Environmental Planner, B.A., Environmental Studies, Sonoma State University. Contribution: Air, Noise Water Study.

Brad Mettam, Project Manager. 15 years experience in transportation and land use planning. Contribution: Overall project coordinator.

R. Steve Miller, Landscape Architect. Bachelors of Landscape Architecture, University of Idaho in Moscow, Idaho. Registered to practice in California since 1987. Contribution: Visual Assessment.

Craig Olofson, Biologist, Associate Environmental Planner (Natural Sciences). B.S., double major Wildlife Management and Natural Resources, Humboldt State University; 15 years experience doing field biology throughout California. Contribution: Natural Environment Study.

William Owen, Senior Engineering Geologist. Degrees in Geological Sciences and Geophysics, University of California at Riverside; California Registered Geophysicist, Registered Geologist and Certified Engineering Geologist; 17 years experience in Geophysics and Engineering Geology. Contribution: Directed the geophysical study to assess the location of the Sherwin Till/Bishop Tuff contact.

Lora Rischer, Associate Right-of-Way Agent. B.S., Sports Medicine, Sacramento State University. Contribution: Draft Relocation Impact Report.

Jane Sellers, Research Writer. B.A., Journalism, California State University, Fresno; more than 15 years writing/editing experience. Contribution: Edited draft and final Environmental Assessment/Initial Study.

Nick Sprague, Design Engineer. B.S., Environmental Resources Engineering, Humboldt State University; 3 years transportation engineering experience. Contribution: Project Engineer.

Denise Thomas, Associate Environmental Planner. M.A., California State University, Chico; B.A., Anthropology, California State University, Chico; 7 years California and Great Basin archaeology experience. Contribution: Historic Property Survey Report.

Juergen Vespermann, Associate Environmental Planner. Civil Engineering Degree, Fachhochschule Muenster, Germany; 14 years transportation planning/environmental planning experience. Contribution: Wrote Environmental Assessment/Initial Study and coordinated the environmental process for the project.

Chapter 6 References

Air, Noise, Water, Hazardous Waste Study, Sherwin Summit, July 2000

Department of Transportation, Division of Engineering Services, Geotechnical Services, Geophysical Investigation, Big Pumice Cut, U.S. Highway 395, March 26, 2003

Department of Transportation, Ken Doran, Engineering Geologist, Hazardous Waste Branch, Caltrans District 6, April 4, 2001

Floodplain Evaluation Report and Location Hydraulics Study, March 7, 2000

Historic Property Survey Report, Sherwin Summit Rehabilitation Project, December 2002

Natural Environment Study, Sherwin Summit Rehab Project, Caltrans, April 2003

Value Analysis Report, U.S. 395 Sherwin Summit Rehabilitation, Tom's Place, California, December 2002

Visual Impact Assessment, U.S. Highway 395, Sherwin Summit Rehabilitation Project, June 2003

Appendix A Environmental Checklist

One of the purposes of the California Environmental Quality Act is to inform state, regional, and local governmental decision-makers and the public of impacts of proposed activities, and in particular, those impacts that are either significant or potentially significant. Determining and documenting whether an activity may have a significant effect on the environment plays a critical role in the California Environmental Quality Act process. The following checklist is a device that was used to identify and evaluate any potential impacts from the proposed activity on physical, biological, social and economic resources. This checklist is not a National Environmental Policy Act requirement.

Differences exist in the way impacts are addressed in California Environmental Quality Act environmental documents as compared to National Environmental Policy Act environmental documents. While the California Environmental Quality Act requires that environmental documents state a determination of significant or potentially significant impacts, as has been done in the following checklist, the National Environmental Policy Act does not. It can be seen that having to address significant or potentially significant impacts in joint California Environmental Quality Act and National Environmental Policy Act environmental documents can be confusing, especially in those instances where the two laws and implementing regulations have different thresholds of significance.

Under the National Environmental Policy Act, the degree to which a resource is affected is used only to determine whether a National Environmental Policy Act Environmental Impact Statement or some lower level of documentation would be required. Under the National Environmental Policy Act, once the federal agency has determined the magnitude of the project's impacts and the level of environmental documentation required, it is the magnitude of the impact that is evaluated in the environmental document and no judgment of its degree of significance is deemed important in the document text. For the purpose of the impact discussion in this document, determination of significant or potentially significant impacts is made only in the context of the California Environmental Quality Act.

Based on the results of the technical studies, it has been determined that the appropriate level of California Environmental Quality Act environmental documentation for this project is an Initial Study/Negative Declaration.

	CEQA			
	Potentially significant impact	Less than significant impact with mitigation	Less than significant impact	No impact
AESTHETICS - Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	X	☐	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	X	☐	☐
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	X	☐	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	X
AGRICULTURE RESOURCES - In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	X
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	☐	☐	☐	X
AIR QUALITY - Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	X

	CEQA			
	Potentially significant impact	Less than significant impact with mitigation	Less than significant impact	No impact
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	X
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	X
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☐	X

BIOLOGICAL RESOURCES - Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	X
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	☐	X	☐	☐
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	X

COMMUNITY RESOURCES - Would the project:

a) Cause disruption of orderly planned development?	☐	☐	☐	X

	CEQA			
	Potentially significant impact	Less than significant impact with mitigation	Less than significant impact	No impact
b) Be inconsistent with a Coastal Zone Management Plan?				X
c) Affect life-styles, or neighborhood character or stability?				X
d) Physically divide an established community?				X
e) Affect minority, low-income, elderly, disabled, transit-dependent, or other specific interest group?				
f) Affect employment, industry, or commerce, or require the displacement of businesses or farms?				X
g) Affect property values or the local tax base?				X
h) Affect any community facilities (including medical, educational, scientific, or religious institutions, ceremonial sites or sacred shrines?				X
i) Result in alterations to waterborne, rail, or air traffic?				X
j) Support large commercial or residential development?				X
k) Affect wild or scenic rivers or natural landmarks?				X
l) Result in substantial impacts associated with construction activities (e.g., noise, dust, temporary drainage, traffic detours and temporary access, etc.)?				X
CULTURAL RESOURCES - Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?				X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?		X		
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
d) Disturb any human remains, including those interred outside of formal cemeteries?				X
GEOLOGY AND SOILS - Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				X

	CEQA			
	Potentially significant impact	Less than significant impact with mitigation	Less than significant impact	No impact
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	X
ii) Strong seismic ground shaking?	☐	☐	☐	X
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☐	X
iv) Landslides?	☐	☐	☐	X
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	X
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	X
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	X
HAZARDS AND HAZARDOUS MATERIALS - Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the	☐	☐	☐	X

	CEQA			
	Potentially significant impact	Less than significant impact with mitigation	Less than significant impact	No impact
project result in a safety hazard for people residing or working in the project area?				
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒
HYDROLOGY AND WATER QUALITY - Would the project:				
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☒
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☒
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☐	☒
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	☐	☐	☐	☒
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☒
f) Otherwise substantially degrade water quality?	☐	☐	☐	☒
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒

	CEQA			
	Potentially significant impact	Less than significant impact with mitigation	Less than significant impact	No impact
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	X
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	X
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	X
LAND USE AND PLANNING - Would the project:				
a) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	X
b) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	X
MINERAL RESOURCES - Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	X
NOISE - Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	X
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	X
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the	☐	☐	☐	X

	CEQA			
	Potentially significant impact	Less than significant impact with mitigation	Less than significant impact	No impact
project expose people residing or working in the project area to excessive noise levels?				
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	X
POPULATION AND HOUSING - Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	X
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	X
PUBLIC SERVICES -				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?	☐	☐	☐	X
Police protection?	☐	☐	☐	X
Schools?	☐	☐	☐	X
Parks?	☐	☐	☐	X
Other public facilities?	☐	☐	☐	X
RECREATION -				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	X
b) Does the project include recreational facilities or require the construction or expansion of recreational	☐	☐	☐	X

	CEQA			
	Potentially significant impact	Less than significant impact with mitigation	Less than significant impact	No impact
facilities which might have an adverse physical effect on the environment?				
TRANSPORTATION/TRAFFIC - Would the project:				
a) Cause an increase in traffic, which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	☐	☐	☐	☒
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒
e) Result in inadequate emergency access?	☐	☐	☐	☒
f) Result in inadequate parking capacity?	☐	☐	☐	☒
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☒
UTILITIES AND SERVICE SYSTEMS - Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☒
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has	☐	☐	☐	☒

	CEQA			
	Potentially significant impact	Less than significant impact with mitigation	Less than significant impact	No impact
adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	X
g) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	X

MANDATORY FINDINGS OF SIGNIFICANCE -

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	X
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☐	X
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	X

Appendix B Coordination and Consultation

Agency Participation

The following agencies and organizations were consulted and coordinated with during the project development:

U. S. Fish and Wildlife Service. Caltrans requested a list of endangered and threatened species that might be present in the project area. The list was received on May 7, 2003 (see Appendix H).

California Department of Fish and Game. A Streambed Alteration Agreement pursuant to the California Department of Fish and Game code 1600 et. sec. would be needed for construction activities around Rock Creek to ensure maximum protection for riparian habitats affected by the proposed project.

U.S. Army Corps of Engineers. Under the Clean Water Act, the impacts of this project to jurisdictional waters of the U.S. would be covered under a Nationwide Permit 14 (Linear Transportation Crossing) and 33 (Temporary Construction, Access, Dewatering) under Section 404.

Regional Water Quality Control Board. The Regional Water Quality Control Board has jurisdiction over construction activities adjacent to the waterways under the Clean Water Act (401).

Native American Involvement. Native American consultation efforts included correspondence with Debbie Pilas-Treadway (California Native American Heritage Commission), Monty Bengochia and Gerald Kane (Bishop Paiute Tribe), and Jerry Andrews (Kuzedika Paiute Tribe).

Coordination with the Native American community included contacting the Native American Heritage Commission and requesting a search of the sacred lands files. The commission did not find any sacred sites, native plant gathering locations, traditional cultural properties, or any other special resources that may be affected by the proposed project. A list of Native American individuals and groups that might have an interest in the proposed project also was requested from the Native American Heritage Commission.

The Bishop Paiute Tribe expressed an interest in the Phase II investigations and wished to have Native American monitors involved during excavation. The tribe designated Gerald Kane, Tribal Council Member, as the Native American monitor.

Mr. Kane participated daily in the excavations for the duration of this portion of the project.

The Native American community has not expressed any comments or concerns regarding the project to date.

State Historic Preservation Officer. Concurrence pursuant to the National Historic Preservation Act that cultural studies were adequate and that archaeological sites CA-MNO-2433/H, CA-MNO-3465, and CA-MNO-3490 were determined to be eligible for the National Register of Historic Places is contained in Appendix G.

Bureau of Land Management. Formal and informal consultation with the Bureau of Land Management has been initiated and maintained through all stages of the cultural resources identification/evaluation effort.

U.S. Forest Service, Inyo National Forest. Consultation with Linda Reynolds, Inyo National Forest Archaeologist, has been ongoing throughout all stages of the project.

Historical Society of the Upper Mojave Desert. No historical societies are known to exist in the general vicinity of the project area, but the directors of the Historical Society of the Upper Mojave Desert in Bakersfield have been contacted regarding the proposed project. There has been no response to this request to date.

Laws Railroad Museum and Historical Site. Barbara Moss, curator of Laws Railroad Museum and Historical Site, was contacted on September 18, 2001 concerning possible historic resources in the project area.

Public Participation and Information

Caltrans participated in three public meetings to discuss the Sherwin Summit Rehabilitation project. Meetings were held on February 13, 2002 at Paradise Fire Station; February 27, 2002 at the Crowley Lake Community Center; and April 29, 2002 at Swall Meadows Fire Station.

Most of the comments from participants at these meetings were in regard to the proposed frontage road connecting Old Sherwin Grade Road (also referred to as Lower Rock Creek Road) and Rock Creek Road, and removing the intersection of the former. Overall, the response from the meeting attendees was largely positive toward the project. Several noted that they would like improvements to the existing intersection at Tom’s Place.

The Draft Initial Study/Environmental Assessment was initially circulated to the public from December 18, 2003 to January 30, 2004. During the public comment period, Caltrans made the Initial Study/Environmental Assessment available to the public and published the opportunity for a public hearing in *The Inyo Register*. In addition, the document was available on the Internet. During this time, a number of requests for a public hearing were received for this project. Therefore, Caltrans held a public hearing on March 24, 2004 and extended the public comment period to April 5, 2004.

A total of 29 comments were received: two written comments during the public hearing; two written comments to the court reporter during the public hearing, six comments were sent through the U.S Postal Service and 19 through e-mail. Most comments were in regard to the potential impacts to and treatment of the geological formation, the "Pumice Cut." A few people and the Department of Fish and Game requested an Environmental Impact Report. Some were concerned about traffic impacts to the Rock Creek Road/U.S. Highway 395 intersection, a potential increase in deer mortality due to the proposed frontage road, and impacts to Bitterbrush vegetation in the region. Each response to comment is shown after the copy of the letters in Appendix J.

In addition, several California universities with geology departments (University of California at Santa Barbara, University of California at Davis, University of California at Riverside, and California State University, Fresno) and the California Council of Geoscience Organizations were contacted through the public information period and provided input to the proposed project.

Appendix C Title VI Policy Statement

DEPARTMENT OF TRANSPORTATION
OFFICE OF THE DIRECTOR
1120 N STREET
P. O. BOX 942873
SACRAMENTO, CA 94273-0001
PHONE (916) 654-5267
FAX (916) 654-6608

July 26, 2000

TITLE VI
POLICY STATEMENT

The California State Department of Transportation under Title VI of the Civil Rights Act of 1964 and related statutes, ensures that no person in the State of California shall, on the grounds of race, color, sex and national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity it administers.

Jeff Morales

JEFF MORALES
Director

Appendix D Special Provisions

Lead Provisions

Studies conducted in March 2001 to determine if the soil in the project area was contaminated with aerially deposited lead did not reveal any levels above allowable standards. However, before any excavation or other disturbance of the soil in the project boundaries, a project-specific Health and Safety Plan must be developed to prevent or minimize employees' exposure to the potential lead hazard.

The required elements of the site safety plan are contained in Title 8, California Code of Regulations (CCR), Section 5192(b) (4) (B) and the Occupational Safety and Health Guidance Manual published by the National Institute of Occupational Safety and Health, Occupational Safety and Health Administration and U.S. Environmental Protection Agency.

Before performing any work in areas containing lead, personnel who have no prior training or are not current in their training status, including state personnel, shall complete a safety-training program that meets the requirements of Title 8, CCR Section 1532.1.

Migratory Bird Special Provisions

It is anticipated that migratory birds may try to nest in vegetation or on structures within the Caltrans right-of-way or easement. If any work would alter vegetation or structures within the Caltrans right-of-way or easement, the contractor shall take measures as necessary to prevent impacts to migratory birds, including any part, nest, or egg or any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or part, or any such bird or any part, nest, or egg thereof. Federal and state laws protect migratory birds, their occupied nests, and their eggs from destruction. The applicable federal law is the Migratory Bird Treaty Act (15 USC 703-711), 50 CFR Part 21, and 50 CFR Part 10. Protection under California law is found in the Fish and Game Code Sections 3503, 3513, and 3800. Any persons responsible for violating these laws may be arrested by a representative of the Department of the Interior (U.S. Fish and Wildlife Service) or a California Department of Fish and Game warden. Any person found guilty shall be fined up to $10,000 or serve a six-month imprisonment, or both.

No extension of time or compensation will be granted for a suspension of work due to nesting migratory birds.

Cultural Provisions

If buried cultural materials are unearthed during construction, Caltrans policy states that work must be halted in the vicinity of the find until a qualified archaeologist can assess its significance. If human remains are unearthed during construction, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the county coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code Section 5097.98.

Environmentally Sensitive Areas

To eliminate the potential to affect archaeological deposits at sites, Caltrans would protect potentially eligible deposits by identifying them as environmentally sensitive areas and enclosing them within a temporary fence. Caltrans shall further ensure site protection with the following measures: 1) the installation of the temporary environmentally sensitive area fencing would be monitored by an archaeologist and Native American monitor; 2) construction activities within 15 meters (50 feet) of known site boundaries shall be monitored by an archaeologist and Native American monitor; and 3) the integrity of the environmentally sensitive area fences as installed would be monitored throughout the duration of the construction activities in the vicinity of these sites.

Appendix E Floodplain Evaluation Summary Report

Floodplain Evaluation Report Summary

Dist.: **09** Co.: **INYO** Rte.: **395** K.P.: **207.3/208.4; PM 128.8/129.5**
MONO **395** **0.0/16.6** **0.0/10.3**

Project No.: **09-269000** Bridge No.: **NA**

Limits: **In Inyo and Mono County on Rte 395 near Tom's Place, from 1.13 km (0.7mile) south of the Mono County Line to Rock Creek Road.**

Floodplain Description: **Rock Creek and ephemeral drainage courses.**

	Yes	No
1) Is the proposed action a longitudinal encroachment of the base floodplain?		X
2) Are the risks associated with the implementation of the proposed action significant?		X
3) Will the proposed action support probable incompatible floodplain development?		X
4) Are there any significant impacts on the natural and beneficial floodplain values?		
5) Routine construction procedures are required to minimize impacts on the floodplain. Are there any special mitigation measures necessary to minimize impacts or restore and preserve natural and beneficial floodplain values? If yes, then explain.		
6) Does the proposed action constitute a significant floodplain encroachment as defined in 23 CFR, Section 650.105(q).		X
7) Are Location Hydraulic Studies that document the above answers on file? If not, explain.	X	

PREPARED BY:

Truman P. Davis — Signature- District Hydraulics Engineer — 3/7/00 Date

Mike Donahue — Signature- District Environmental Branch Chief — 6/13/00 Date

Craig A Hoist — Signature- Project Engineer — 3/7/00 Date

I CONCUR:

Signature- FHWA — 6/22/00 Date

Appendix F Location Hydraulics Study

CALIFORNIA DEPARTMENT OF TRANSPORTATION

DISTRICT 9
March 7, 2000

Floodplain Evaluation Report & Location Hydraulics Study

Project Proposal

The Department of Transportation, CALTRANS-District 9 is proposing to improve the existing four lane Route 395, from about 1.13 km (0.7 mi.) south of the Inyo/Mono County line to the intersection of Rock Creek Road. In the divided four lane highway section from Inyo KP 207.3 (PM 128.8) to Mono KP 11.3 (PM 7.0) the proposed project will widen the shoulders of the northbound lanes to 3.0 m outside and 1.5 m inside. In the all-paved four lane highway section, from Mono KP 11.3 (PM 7.0) to Mono 16.6 (PM 10.3), the median will be increased to 4.3 m. and the outside shoulders widened to 3.0 m.. The project also includes construction of a new frontage road from Lower Rock Creek to Rock Creek Road. Drainage culverts will be extended to accommodate the widening.

Hydrological Information

The project is located at elevations ranging from 1430m (4700ft.) to 2160m (7100 ft.). The average annual precipitation in this area ranges from 250mm to 380 mm (10 to 15 inches) occurring as snowfall and rainfall.

The project is almost entirely surrounded by public land managed by the U.S. Forest Service. There is some private land and residential development in the Tom's Place area at the very north (west) end of the project.

Rock Creek is a perennial stream that flows under the highway at about KP 14.2 (PM 9.2). The existing drainage structure is a 5' X 5' reinforced concrete box culvert. The capacity of this culvert is about 8.5 cms (300 cfs). The drainage basin above the highway at this point is about 44 sq. miles. The Rock Creek Drainage basin extends up to over 4,000 m (13,000 ft.). The estimated 100 year flow for Rock Creek at this location is less than 8.5 cms (300 cfs.), considering an overflow diversion located about a mile upstream that diverts flow toward the Crooked Creek drainage.

The other drainage culverts receive flow from minor drainage basins and do not flow year around.

New drainage facilities installed for the new frontage road will be designed to convey the estimated 100 year flows.

The proposed action will not have the affect of raising the 100 year floodplain at the drainage crossings.

REGISTERED CIVIL ENGINEER

REGISTERED PROFESSIONAL ENGINEER
TRUMAN DENIO
NO. 34556
EXP. 9 30 03
CIVIL
STATE OF CALIFORNIA

Prepared by : **Truman P. Denio**
Caltrans-District 9
District Hydraulics Engineer

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Appendix G SHPO Concurrence Letters, June/July 2003 and July 2004

STATE OF CALIFORNIA – THE RESOURCES AGENCY
GRAY DAVIS, *Governor*

OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION
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30 May 2003

In Reply Refer To
FHWA030206A

Gary N. Hamby
Division Administrator
California Division
Federal Highway Administration
980 Ninth Street, Suite 400
Sacramento, California 95814-2724

RE: HDA-CA, FILE NO. 09-INY-395, KP 207.28/208.40, 09-MNO-395, KP 0.0/16.58, SHERWIN SUMMIT REHABILITATION, 09-269000, DOCUMENT NO. P 43329 [SECTION 106 CONSULTATION ON THE REHABILITATION OF UNITED STATES HIGHWAY 395, INYO AND MONO COUNTIES]

Dear Mr. Hamby,

This letter is a response to your submission of the December 2002 *Historic Property Survey Report, Sherwin Summit Rehabilitation Project, Inyo and Mono Counties, California* (2 volumes) (HPSR). Your request and my comments here are made pursuant to 36 CFR Part 800, the regulations that implement Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f), as amended.

You request in your letter of 3 February 2003 that I concur that the subject undertaking's area of potential effects (APE) is adequately defined, that the HPSR and its attendant documents are adequate and satisfy the requirements of the National Historic Preservation Act and 36 CFR 800, and that I concur with the Federal Highway Administration's (FHWA) National Register of Historic Places (National Register) determinations for thirty-two archaeological sites.

On the basis of my review of the HPSR, I concur that the FHWA's effort to determine and document the subject undertaking's APE is adequate pursuant to 36 CFR § 800.4(a)(1). I understand the APE to be the "Area of Potential Effects" as shown on Figures 3a–3aa of the HPSR (16 January 2003 *Area of Potential Effects* map)

I concur further that the FHWA's efforts to identify historic properties in the undertaking's APE, pursuant to 36 CFR § 800.4(b), are adequate.

I concur with the FHWA's determinations that

CA-Mno-3464	**CA-Mno-3467**	**CA-Mno-3468**
CA-Mno-3470	**CA-Mno-3471**	**CA-Mno-3472**
CA-Mno-3474	**CA-Mno-3478**	**CA-Mno-3480**
CA-Mno-3486	**CA-Mno-3492**	

are not eligible for inclusion in the National Register.

I concur with the FHWA's determinations that

CA-Mno-2433/H **CA-Mno-3465** **CA-Mno-3490**

are eligible for inclusion in the National Register under Criterion D.

I concur in the FHWA's decision, for the purpose of our consultation on the present undertaking, to treat archaeological sites CA-Mno-2432, CA-Mno-3462, CA-Mno-3466, CA-Mno-3473, CA-Mno-3475, CA-Mno-3479, CA-Mno-3481, CA-Mno-3482, CA-Mno-3483, CA-Mno-3484, CA-Mno-3485, CA-Mno-3487, CA-Mno-3488/H, CA-Mno-3489, CA-Mno-3491, CA-Mno-3493, and CA-Iny-5939 as though they are eligible for inclusion in the National Register.

I am presently unable to concur with the FHWA's determination that archaeological site CA-Mno-3463 is not eligible for inclusion in the National Register. The FHWA's presentation of the "heavy concentration of charcoal and fire-cracked-rock" (pp. 89–92 of the August 2002 *Phase II Archaeological Investigations for the Sherwin Summit Rehabilitation Project, U.S. Highway 395, Inyo and Mono Counties, California*) does not provide sufficient information to allow me to agree with the agency's conclusion that the concentration is not an archaeological feature. Please provide me with more thorough descriptions of the concentration, the constituent elements of the concentration, and the concentration's physical context. I would appreciate it if the agency would supplement these descriptions with the available graphic documentation of the deposit, and provide an interpretation of the deposit's depositional history.

Please direct any questions or concerns that you may have to Project Review Unit archaeologist Mike McGuirt at 916.653.8920 or at mmcguirt@ohp.parks.ca.gov.

Sincerely,

Dr. Knox Mellon
State Historic Preservation Officer

WKM:mdm

STATE OF CALIFORNIA – THE RESOURCES AGENCY GRAY
DAVIS, *Governor*

OFFICE OF HISTORIC PRESERVATION

DEPARTMENT OF PARKS AND RECREATION

P.O. BOX 942896
SACRAMENTO, CA 94296-0001
(916) 653-6624 Fax: (916) 653-9824
calshpo@ohp.parks.ca.gov
www.ohp.cal-parks.ca.gov

2 July 2003

In Reply Refer To
FHWA030206A

Gary N. Hamby
Division Administrator
California Division
Federal Highway Administration
980 Ninth Street, Suite 400
Sacramento, California 95814-2724

RE: HDA-CA, FILE NO. 09-INY-395, KP 207.28/208.40, 09-MNO-395, KP 0.0/16.58, SHERWIN SUMMIT REHABILITATION, 09-269000, DOCUMENT NO. P 43329 [FURTHER SECTION 106 CONSULTATION ON THE REHABILITATION OF UNITED STATES HIGHWAY 395, INYO AND MONO COUNTIES]

Dear Mr. Hamby,

This letter responds to a 19 June 2003 submission from Denise Thomas, California Department of Transportation (Caltrans) Central California Cultural Resources Branch Associate Environmental Planner, Archaeology, on behalf of the Federal Highway Administration (FHWA), of the additional information that I requested from your agency on 30 May 2003. Thank you for facilitating the submission of this material.

I am now able to concur with the FHWA's determination that

CA-Mno-3463

is *not* eligible for inclusion in the National Register of Historic Places.

Please direct any questions or concerns that you may have to Project Review Unit archaeologist Mike McGuirt at 916.653.8920 or at mmcguirt@ohp.parks.ca.gov.

Sincerely,

Dr. Knox Mellon
State Historic Preservation Officer

WKM:mdm

DH

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

OFFICE OF HISTORIC PRESERVATION
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15 July 2004

In Reply Refer To
FHWA030206A

Gene K. Fong
Division Administrator
California Division
Federal Highway Administration
650 Capitol Mall, Suite 4-100
Sacramento, California 95814

RE: HDA-CA, FILE NO. 09-INY-395; KP207.28/208.40, 09-MNO-395; KP0.0/16.58, EA 09-269000, SHERWIN SUMMIT REHABILITATION PROJECT, DOCUMENT NO. P49625 [FURTHER SECTION 106 CONSULTATION ON THE **REHABILITATION OF UNITED STATES HIGHWAY 395 OVER THE SHERWIN SUMMIT**, INYO AND MONO COUNTIES, CALIFORNIA]

Dear Mr. Fong,

This letter is a response to the Federal Highway Administration's (FHWA) submission of an untitled June 2004 finding of effect document (Finding of Effect), the June 2004 draft *Memorandum of Agreement between the Federal Highway Administration and the California State Historic Preservation Officer Regarding the Sherwin Summit Rehabilitation Project on U.S. Highway 395 between Kilometer Post R207.28 and R208.40 in Inyo County and between Kilometer Post R0.0 and R16.58 in Mono County, California* (draft MOA), the June 2004 *Treatment Plan for Archaeological Sites CA-MNO-2433/H and CA-MNO-3490 along the Sherwin Summit Grade of U.S. Highway 395 in Mono County, California* (draft Treatment Plan), which is attachment 2 to the draft MOA, and the June 2004 *Environmentally Sensitive Area (ESA) Action Plan: Tasks and Responsible Parties, Sherwin Summit Rehab Project* (ESA Action Plan), which is attachment 3 to the draft MOA. I continue our consultation here under 36 CFR Part 800, the regulations that implement Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f), as amended.

You request in your letter of 25 June 2004 that I concur that

1) the undertaking will adversely affect 2 of 21 historic properties in the undertaking's area of potential effects (APE),
2) the undertaking will not adversely affect 19 of 21 historic properties in the undertaking's APE, and
3) the implementation of the draft MOA will resolve the undertaking's adverse effects on historic properties.

I understand, on the basis of a 15 July 2004 telephone conversation between Sarah Gassner, California Department of Transportation Central California Cultural Resources Branch Associate Environmental Planner, Archaeology, on behalf of the FHWA, and Mike McGuirt of my staff that the FHWA wishes to assume, for the purpose of the present consultation, that the wagon road remnant P-26-3957 is eligible for inclusion in the National Register of Historic Places (National Register). I agree that the assumption is a reasonable management strategy for the property.

A statement on page 22 of the Finding of Effect appears to indicate that the FHWA previously made a determination that Locus F of archaeological site CA-Mno-2433/H does not contribute to the National Register eligibility of that site as a whole. I have no record of a formal FHWA determination for that locus. On the basis of documentation that the FHWA has provided on the locus to date, I would not presently be able to agree with such a determination if the FHWA were to formally make it. I recommend that the FHWA either assume that the locus contributes to the National Register eligibility of [illegible]

RECEIVED
JUL 23 2004
BY FHWA

2433/H as a whole and allocate additional data recovery excavation units to ensure that the agency acquires a statistically significant sample of the material culture content of the locus and of the distribution patterns for that material culture, or develop a formal argument that the locus does not contribute to the National Register eligibility of the property as a whole.

A statement on page 23 of the Finding of Effect appears to indicate that the FHWA previously made a determination that portions of archaeological site CA-Mno-3465 along the southern margin of that property do not contribute to the National Register eligibility of the property as a whole. I have no record of such a formal FHWA determination. I cannot assess the raw field data for the property in the August 2002 *Phase II Archaeological Investigations for the Sherwin Summit Rehabilitation Project, U.S. Highway 395, Inyo and Mono Counties, California* (Phase II Report), because the coordinates for the excavation units do not appear to correspond to the scale on the site map (Figure 27). I request that the FHWA reconcile the apparent discrepancy and develop a formal argument that the locus does not contribute to the National Register eligibility of the property as a whole.

On the basis of my review of the Finding of Effect, I concur with the FHWA's finding that the implementation of the undertaking, as presently proposed, will adversely affect historic properties pursuant to 36 CFR § 800.5(d)(2).

Contrary to the statement on page 22 of the Finding of Effect, pages 27 and 43 of the draft Treatment Plan indicate that Locus B of archaeological site CA-Mno-2433/H will be subject to damage as a result of the undertaking's implementation. I have no record of either a formal or informal FHWA determination that Locus B does not contribute to the National Register eligibility of CA-Mno-2433/H. If the FHWA were to make such a formal determination, which would be a necessary prerequisite to eliminating the locus from further consideration in the present consultation, then I would be able to concur with it.

I have reviewed the draft Treatment Plan and the ESA Action Plan and I would appreciate it if the FHWA would clarify several aspects of the former plan. There appear to be conflicting statements in the draft Treatment Plan about the proposed character of data recovery on archaeological sites CA-Mno-2433/H and CA-Mno-3490. As one example, page 27 of the plan states that "supplementary work is not planned for Loci B, D, and F, or in non-locus areas, due to the scarcity of cultural material found or because the deposits—and subsequent information potential—were exhausted by Phase II testing," while table 1 (p. 44) indicates that non-locus excavation is an element of the data recovery plan. Please either clarify the apparent internal conflict here and any others that may exist in the document, or revise the plan to eliminate such conflicts.

I would also appreciate it if the FHWA would clarify its presentation of the proposed data recovery volumes in tables 1 and 2 (pp. 44 and 46). It is very difficult to understand to what the figures in the "Est. Recovery" column relate. I don't understand, for example, how 8.0 m^3 of the archaeological deposits of CA-Mno-2433/H's Locus A represents 65 percent of the deposits of the 611 m^2 portion of that locus that is apparently in the undertaking's area of direct impact. That would roughly mean that the deposits across the subject 611 m^2 portion of Locus A would have to be no greater than 2 cm in depth for 8.0 m^3 to represent 65 percent of those deposits. Please explain the "Est. Recovery" calculations.

Please revise the *5.5 Public Education and Interpretation* section of the draft Treatment Plan to more explicitly commit the FHWA to a particular course of action.

Please incorporate the ESA Action Plan into the draft Treatment Plan as the former plan describes treatment measures to which particular archaeological sites will be subject as part of the FHWA's comprehensive strategy to resolve the undertaking's adverse effects on historic properties.

An appropriately drafted agreement document for the present consultation must be based in part on a consensus about the National Register status of properties located within the undertaking's APE. Secondly, the agreement document will refer to specified attachments. It is therefore necessary to reach consensus on the content and accuracy of these attachments if the agreement document is to truthfully

stipulate the consensus of the signatories regarding the manner in which the adverse effects of the undertaking on historic properties will in part be resolved by the actions set forth in these attachments. I therefore prefer to suspend consideration of the draft MOA pending resolution of the issues I have discussed above.

Please direct any questions or concerns that you may have to Project Review Unit archaeologist Mike McGuirt at 916.653.8920 or at mmcguirt@ohp.parks.ca.gov.

Sincerely,

Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

MWD:mdm

Appendix H U.S. Fish and Wildlife Species List

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003

In Reply, Refer To: PAS 440.470.570

May 7, 2003

Craig Olofson, Project Biologist
California Department of Transportation
District 9
500 South Main Street
Bishop, California 93514

Subject: Species List for PM R10.3 to 128.8, U.S. Highway 395, Inyo and Mono Counties, California

Dear Mr. Olofson:

We are responding to your request, dated April 16, 2003, and received in our office via facsimile on April 16, 2003, for a list of endangered and threatened species that may occur in the vicinity of U.S. Highway 395 from postmile R128.8 in northern Inyo County to postmile R10.3 in southern Mono County. The project would include rehabilitating the pavement, widening shoulders, and flattening slopes along this stretch of highway. We understand the Federal Highway Administration (FHWA) is the lead Federal agency for the project, and that it would assume responsibility under section 7 of the Endangered Species Act of 1973, as amended (Act).

The enclosed list of species fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Act. The FHWA has the responsibility to review its proposed activities and determine whether any listed species may be affected. If the project is a construction project which may require an environmental impact statement[1]/ the FHWA has the responsibility to prepare a biological assessment to make a determination of the effects of the action on the listed species or critical habitat. If the FHWA determines that a listed species or critical habitat is likely to be adversely affected, it should request, in writing through our office, formal consultation pursuant to section 7 of the Act. Informal consultation may be used to exchange information and resolve conflicts with respect to threatened or endangered species or their critical habitat prior to a written request for formal consultation. During this review process, the FHWA may engage in

[1] "Construction project" means any major Federal action which significantly affects the quality of the human environmental designed primarily to result in the building of structures such as dams, buildings, roads, pipelines, and channels. This includes Federal actions such as permits, grants, licenses, or other forms of Federal authorizations or approval which may result in construction.

planning efforts but may not make any irreversible commitment of resources. Such a commitment could constitute a violation of section 7(d) of the Act.

Federal agencies are required to confer with the Service, pursuant to section 7(a)(4) of the Act, when an agency action is likely to jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of proposed critical habitat (50 CFR 402.10(a)). A request for formal conference must be in writing and should include the same information that would be provided for a request for formal consultation. Conference can also include discussions between the Service and the Federal agency to identify and resolve potential conflicts between an action and proposed species or proposed critical habitat early in the decision-making process. The Service recommends ways to minimize or avoid adverse effects of the action. These recommendations are advisory because the jeopardy prohibition of section 7(a)(2) of the Act does not apply until the species is listed or the proposed critical habitat is designated. The conference process fulfills the need to inform Federal agencies of possible steps that an agency might take at an early stage to adjust its actions to avoid jeopardizing a proposed species.

When a proposed species or proposed critical habitat may be affected by an action, the lead Federal agency may elect to enter into formal conference with the Service even if the action is not likely to jeopardize or result in the destruction or adverse modification of proposed critical habitat. If the proposed species is listed or the proposed critical habitat is designated after completion of the conference, the Federal agency may ask the Service, in writing, to confirm the conference as a formal consultation. If the Service reviews the proposed action and finds that no significant changes in the action as planned or in the information used during the conference have occurred, the Service will confirm the conference as a formal consultation on the project and no further section 7 consultation will be necessary. Use of the formal conference process in this manner can prevent delays in the event the proposed species is listed or the proposed critical habitat is designated during project development or implementations.

Only listed species receive protection under the Act. However, sensitive species should be considered in the planning process in the event they become listed or proposed for listing prior to project completion. We recommend that you review information in the California Department of Fish and Game's (CDFG) Natural Diversity Data Base. You can contact the CDFG at (916) 324-3812 for information on other sensitive species that may occur in this area. If you have any questions regarding this letter, please contact Robert McMorran of my staff at (805) 644-1766.

Sincerely,

Judy Hohman

Judy Hohman
Division Chief
Mojave/Great Basin Deserts

Enclosure

LISTED, PROPOSED, AND CANDIDATE SPECIES
WHICH MAY OCCUR IN THE VICINITY OF U.S. HIGHWAY 395
POSTMILE R128.8 IN INYO COUNTY TO POSTMILE R10.3
IN MONO COUNTY, CALIFORNIA

Birds		
Bald eagle	*Haliaeetus leucocephalus*	T
Southwestern willow flycatcher	*Empidonax traillii extimus*	E
Least Bell's vireo	*Vireo bellii pusillus*	E
Yellow-billed cuckoo	*Coccyzus americanus*	C
Fishes		
Owens tui chub	*Gila bicolor snyderi*	E

Key:
E - Endangered T - Threatened
C - Candidate species for which the Fish and Wildlife Service has on file sufficient information on the biological vulnerability and threats to support proposals to list as endangered or threatened.

Appendix I Draft Relocation Impact Report

State of California — Business, Transportation and Housing Agency

Draft Relocation Document

To : BRAD METTAM
Project Manager – Bishop

Date: May 1, 2003

File: Right of Way
09-Inyo/Mono395–PM
R128.8/R129.5 and R0.0/R10.3

Attention : Bart Dela Cruz, Design Manager – Bishop
Mike Donahue, Environ. Manager – Fresno
Juergen Vespermann, Environ. Planner – Fresno

Fed Aid No. N/A
Const. Fed Aid No. N/A

From : **Department of Transportation**
Right of Way, Central Region – Bishop

EA 09-269000
"Sherwin Summit Rehab"

Subject : Draft Relocation Impact Report for the project near Tom's Place from 0.6km north Gorge Road to Lower Rock Creek Road (KP R207.3/R208.4 and R0.0/R16.6): which proposes to improve an 17.7 kilometer (11 mile) segment of US 395 beginning at kilometer-post (KP) R207.28 in Northern Inyo County, and ending at KP R16.58 (PM R10.3) in Southern Mono County. A Statement of No Significant Impact in regard to Relocation Assistance.

1. Purpose of Relocation Impact Study

The purpose of this study, a Statement of No Significant Impact, is to provide the Department of Transportation, local agencies and the public with information as to what effect/impact this proposed highway improvement project would have on residential and non-residential occupants within the proposed project alternatives. Specifically, this report is concerned with potential problems that may be caused by the displacement of existing structures and their occupants by the various proposed alternatives and alignments of this project.

2. Alignments/Alternatives studied

A. Number of Alignments studied: 1

B. Description of Each Alignment Studied:

The project will widen the west shoulder to 1.5 meters (5 feet), and the east shoulder to 3.0 meters (10 feet) along a section of northbound U.S. 395 in Inyo County from KP R207.28 to R208.4 (PM R128.8 to R129.5) and in Mono County from KP R0.0 to R16.58 (PM R0.0 to R7.0). The median width will be increased to 4.2 meters (14 feet) and the east and west shoulders of the all-paved section will be widened to 3.0 meters (10 feet) from KP 11.27 to 15.9 (PM 7.0 to 9.9). No shoulder widening will occur between KP R15.9 to R16.58 (PM R9.9 to R10.3), but the Rock Creek Road/U.S. 395 intersection will be improved.

There are five curves within the project area which are not up to current design standards. The first curve is at KP R5.44 – KP R6.02 (PM R3.38 to PM R3.74) with a current radius of 548.6 meters (1800 feet). The second at KP 12.6 to KP 13.07 (PM 7.8 to PM 8.12) with a radius of 487.7 meters (1600 feet). The third at KP 14.24 to KP 14.56 (PM 8.85 to PM 9.05) with a radius of 426.7 meters (1400 feet). The fourth curve at KP 14.69 to KP 15.06 (PM 9.13 to PM 9.36) with a radius of 426.7 meters (1400 feet') is located at the geological formation, the *Pumice Cut*. This geological feature is located on the east side of US 395 between KP 14.5 and KP 14.8 (PM 9.02 to PM 9.22). The fifth location consists of a compound curve of a 457.2 meters (1500 feet) radius curve and a 1219 meters (4000 feet) radius curve at KP 15.19 to KP R15.45 (PM 9.44 to PM R9.60). The standard radius for a design speed of 110 km/h is 600 meters (1968.5 feet)

Improvements to existing chain-up areas will consist of enlarging three chain-up areas along the eastern shoulder of the northbound lanes at KP R3.8, R5.02 and R10.15 (PM R2.37, R3.12, and R6.31) in Mono County to accommodate up to fifty vehicles. Lighting installation will be included in the improvements at the chain-up areas located at KP R5.02, KP R3.8 (PM R3.12, PM R2.37), the vista pullout, and KP R10.15 (PM R6.31), if feasible. In addition, the north end of the vista point pullout could be extended as far north as KP R6.73 (PM R4.18) to facilitate use as an additional chain-up area. Also, Caltrans will potentially pave a median cross-over in this location.

The project also includes an extension of Crowley Lake Drive from Rock Creek Road connecting with Lower Rock Creek Road to the south. Activities that are incidental to these improvements consist of utility relocation of approximately forty power poles and two electroliers, extension/installation of culverts, and fence removal and relocation. The road will follow the existing paved road (Crowley Lake Drive) initially and will be designed with two 3.6 meter (12 feet) lanes and 2.4 meter (8 feet) shoulders and will be roughly 1,700 meters (one mile) long. The frontage road will be turned over to Mono County after completion.

3. Findings

A. The estimate prepared for this alternate, as summarized in the Right of Way Data Sheet, showed no relocation assistance was necessary on the alternates studied. Therefore, it has been determined, there is no significant impact to owners, tenants, businesses or persons in possession of real property to be acquired who would qualify for relocation benefits under the Uniform Relocation Assistance and Real Property Acquisition Act of 1970.

B. Any person (individual, family, corporation, partnership, or association) who moves from real property or moves personal property from real property as a result of the acquisition of real property, or who is required to relocate as a result of written notice from the California Department of Transportation from real property required for a transportation project, is eligible for "Relocation Assistance".

C. In the event that acquisition of property and relocation becomes necessary, all activities would then be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. Relocation resources shall be available to those who are displaced without discrimination.

4. Uniform Acquisition and Relocation Policy

All displacees will be assigned to a relocation advisor who will see that all payments and benefits are fully utilized and that all regulations are observed. At the time of the first written offer to purchase owner-occupants are given a detailed explanation of Caltrans "Relocation Program and Services". Tenant-occupants of properties to be acquired are contacted soon after the first written offer to purchase and are also given a detailed explanation of Caltrans "Relocation Program and Services". In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, Caltrans will provide relocation advisory assistance to any person, business, farm, or non-profit organization displaced as a result of the acquisition of real property for public use.

EA 09-269000

The undersigned has completed a Draft Relocation Impact Report for this project, EA 09-269000 "Sherwin Summit", and recommends it for approval:

Prepared by: Lora Rischer 5/1/03

LORA RISCHER date
Right of Way Agent
Central Region -Bishop

The undersigned have reviewed and approve this Draft Relocation Report:

Approved by: Nancy Escallier 5/1/03

NANCY ESCALLIER date
Field Office Chief, Right of Way
Central Region - Bishop

Approved by: Anthony McDowell 5/7/03

ANTHONY McDOWELL date
Office Chief, Right of Way
Central Region

Appendix J Comments and Responses on the EA/IS

The Environmental Assessment/Initial Study was initially circulated for public review and comment between December 18, 2003 and January 30, 2004. The document was distributed to interested public and local agencies. Notices were sent out to members of the public, landowners and the geological community. Notices were also published in *The Inyo Register* newspaper. Copies of the environmental document were sent to local libraries in Bridgeport, Mammoth and Bishop for public review. In addition, the document was available on the Caltrans District 9 webpage.

During the comment period, Caltrans received a number of requests for a public hearing. Therefore, on March 24, 2004, Caltrans conducted a public hearing to discuss the project with the public. Approximately 11 residents and interested parties attended the Public Hearing at the Paradise Fire Station in Bishop in Mono County. Two representatives were from the California Highway Patrol, two from the Mono County Public Works Department, one member of the Board of Supervisors and one from Mono County in addition to five people representing themselves. Information stations containing project maps, graphics and display boards were located around the room. Project team personnel were available to explain the displays, answer questions and receive public input. The public comment period ended on April 5, 2004.

A total of 29 comments were received: two written comments during the public hearing; two written comments to the court reporter during the public hearing, six comments were sent through the U.S Postal Service and 19 through e-mail. Most comments were in regard to the potential impacts to and treatment of the geological formation known as the "Pumice Cut." A few people requested an Environmental Impact Report, were concerned about traffic impacts to the Rock Creek Road/U.S. Highway 395 intersection, a potential increase in deer mortality due to the proposed frontage road and impacts to bitterbrush vegetation in the region.

The following pages show the comments received and the responses given.

STATE OF CALIFORNIA

Governor's Office of Planning and Research

State Clearinghouse and Planning Unit

Arnold Schwarzenegger
Governor

Jan Boel
Acting Deputy Director

January 14, 2004

Juergen Vespermann
Department of Transportation, District 6
2015 E. Shield Ave, Suite 100
Fresno, CA 93726

Subject: Sherwin Summit Rehabilitation Project
SCH#: 2003121094

Dear Juergen Vespermann:

The State Clearinghouse submitted the above named Negative Declaration to selected state agencies for review. The review period closed on January 13, 2004, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Terry Roberts

Terry Roberts
Director, State Clearinghouse

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
(916)445-0613 FAX(916)323-3018 www.opr.ca.gov

Document Details Report
State Clearinghouse Data Base

SCH#	2003121094
Project Title	Sherwin Summit Rehabilitation Project
Lead Agency	Caltrans #6

Type	Neg Negative Declaration
Description	The California Department of Transportation proposes to improve U.S. Highway 395 from about 16 kilometers (10 miles) north of Bishop at kilometer posts R207.24 to R208.4 in Inyo County to Tom's Place at kilometer post R16.6 in Mono County. The purpose of the proposed project is to rehabilitate pavement, widen shoulders and the median, install culvert extensions, improve existing chain-up areas, construct a frontage road and relocate utilities along a 17.7-kilometer section of U.S. Highway 395.

Lead Agency Contact

Name	Juergen Vespermann		
Agency	Department of Transportation, District 6		
Phone	559.243.8171	Fax	
email			
Address	2015 E. Shield Ave, Suite 100		
City	Fresno	State CA	Zip 93726

Project Location

County	Inyo, Mono			
City	Bishop			
Region				
Cross Streets	Rock Creek Road			
Parcel No.				
Township		Range	Section	Base

Proximity to:

Highways	U.S. Highway 395
Airports	
Railways	
Waterways	
Schools	
Land Use	State Highway, Open Space

Project Issues	Aesthetic/Visual; Air Quality; Archaeologic-Historic; Drainage/Absorption; Flood Plain/Flooding; Noise; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Wetland/Riparian; Growth Inducing; Landuse; Cumulative Effects
Reviewing Agencies	Resources Agency; Department of Fish and Game, Region 6 (Inyo & Mono Region); Department of Forestry and Fire Protection; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Caltrans, District 9; California Highway Patrol; Air Resources Board, Transportation Projects; Regional Water Quality Control Bd., Region 6 (Victorville); Native American Heritage Commission; State Lands Commission

Date Received 12/15/2003 Start of Review 12/15/2003 End of Review 01/13/2004

Note: Blanks in data fields result from insufficient information provided by lead agency.

Arnold Schwarzenegger
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research

Jan Boel
Acting Director

February 2, 2004

Juergen Vespermann
Department of Transportation, District 6
2015 E. Shield Ave, Suite 100
Fresno, CA 93726

Subject: Sherwin Summit Rehabilitation Project
SCH#: 2003121094

Dear Juergen Vespermann:

The enclosed comment (s) on your Negative Declaration was (were) received by the State Clearinghouse after the end of the state review period, which closed on January 13, 2004. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2003121094) when contacting this office.

Sincerely,

Terry Roberts

Terry Roberts
Senior Planner, State Clearinghouse

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916)322-2318 FAX(916)322-3785 www.opr.ca.gov

STATE OF CALIFORNIA--THE RESOURCES AGENCY Arnold Schwarzenegger, Governor
DEPARTMENT OF FISH AND GAME
Eastern Sierra-Inland Deserts Region
Bishop Field Office
407 W. Line Street
Bishop, CA 93514
http://www.dfg.ca.gov

January 27, 2004

Mr. Mike Donahue
California Department of Transportation
Southern Sierra Environmental Analysis Branch
2015 E. Sheilds, Suite 100
Fresno, CA 93726

Subject: Environmental Assessment/Initial Study for Sherwin Summit Rehabilitation Project

Dear Mr. Donahue,

The Department of Fish and Game (Department) has reviewed the Environmental Assessment (EA)/Initial Study (IS) for the above mentioned project. The proposed project includes rehabilitating U.S. Highway 395 from about 16 kilometers (10 miles) north of Bishop at kilometer posts R207.24 to R208.4 (post miles R128.8/R129.5) in Inyo County to Tom's Place at kilometer post R16.6 (post mile R10.3) in Mono County. The purpose of the proposed project is to rehabilitate pavement, widen shoulders and the median, install culvert extensions, improve existing chain-up areas, construct a frontage road, and relocate utilities along a 17.7–kilometer (11.0-mile) section of U.S. Highway 395

The Department is providing comments on the EA/IS as the State agency that has the statutory and common law responsibilities with regard to fish and wildlife resources and habitats. California's fish and wildlife resources, including their habitats, are held in trust for the people of the State by the Department (Fish & Game Code §711.7). The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitats necessary for biologically sustainable populations of those species (Fish & Game Code §1802). The Department's fish and wildlife management functions are implemented through its administration and enforcement of the Fish and Game Code (Fish & Game Code §702). The Department is a trustee agency for fish and wildlife under the California Environmental Quality Act (see CEQA Guidelines, 14 Cal. Code Regs. §15386(a)) and a Responsible Agency regarding any discretionary actions (CEQA Guidelines §15381) required by the Department. The Department is providing these comments in furtherance of these statutory responsibilities, as well as its common law role as trustee for the public's fish and wildlife.

1

The Department believes that the analysis of potential project-related impacts to biological resources is inadequate. In general, the analysis is too vague. The document should include an account of each species that could occur in the project vicinity, a detailed description of the surveys, literature review, etc. conducted for each species, any specific reason as to why a survey was not conducted for a particular species, a detailed analysis of potential impacts the

project could have on the species, and specific mitigation measures proposed to reduce the impacts to less than significant levels. Biological surveys must be completed during the appropriate time of year for each species, and be conducted by qualified individuals with experience in local ecosystems. Survey protocols should follow those recommended by the Department. To date, the Department has not been contacted regarding survey protocols for any of the wildlife species mentioned in the document. In addition, a search of the California Natural Diversity Data Base for sensitive species that may occur in the project area (Rovana, Mt. Tom, and Casa Diablo quadrangles) revealed the potential presence of several sensitive species that were not addressed in the document including Golden Eagle, Northern Goshawk, Prairie Falcon, Inyo Hulsea, and Pinyon Rock Cress. A complete evaluation of these species as described above should be included in a revised document.

2

The proposed project area contains native vegetation such as large Jeffrey Pines in which birds, including birds-of-prey may nest on the subject site. Section 3503 of the Fish and Game Code states that "it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation adopted pursuant thereto [usually requiring a license or permit]." Section 3503.5 of the Fish and Game Code further says that "it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provide by this code or any regulation adopted pursuant thereto [usually requiring a license or permit]." The EA/IS does not acknowledge the potential for nesting birds on the site. An adequate analysis of potential impacts to this resource due to project implementation as well as mitigation for potential impacts should be prepared. Following is an example of appropriate mitigation.

> "Proposed project activities (including disturbances to native and non-native vegetation and man-made nesting substrates) should take place outside of the breeding bird season which generally runs from March 1- September 15 (as early as February 1 for raptors) to avoid take (including disturbances which would cause abandonment of active nests containing eggs and/or young). "

If the project activities cannot feasibly avoid the breeding bird season, the Department recommends that beginning thirty days prior to the disturbance of suitable nesting habitat, the project proponent should arrange for weekly bird surveys to detect any nesting birds in the habitat to be removed and any other such habitat within 300 feet of the construction work area (within 500 feet for raptors). The surveys should be conducted by a qualified biologist with experience in conducting breeding bird surveys. The surveys should continue on a weekly basis with the last survey being conducted no more than three days prior to the initiation of clearance/construction work. If a nesting bird or nest is found, the project proponent should delay all clearance/construction disturbance activities in suitable nesting habitat or within 300 feet of nesting habitat (within 500 feet for raptor nesting habitat) until Sept. 15 or continue the surveys in order to locate any nests. If an active nest is located, clearing and construction within 300 feet of the nest (within 500 feet for raptor nests) shall be postponed until the nest is vacated and juveniles have fledged and when there is no evidence of a second attempt at nesting. Limits of construction to avoid a nest should be established in the field with flagging and stakes or construction fencing. Construction personnel should be instructed on the sensitivity of the area. The project proponent should record the results of the recommended protective measures described above to document compliance with applicable State and Federal laws pertaining to the protection of native birds.

3

The EA/IS states that "The proposed project is not expected to adversely affect mule deer habitat. No fawning areas have been identified within the project limits". This statement is inadequate in addressing potential impacts to the Round Valley deer herd. Fawning areas are not the only limiting factor to maintaining a healthy deer herd as the above statement implies. Currently, the proposed project will impact 215 acres of pristine habitat including 58 acres of shadscale/sagebrush scrub, 46 acres of pinyon/Jeffrey woodland and 68 acres of bitterbrush habitat. Bitterbrush is the main forage for Round Valley deer wintering within the project area. Percent bitterbrush in the diet of Round Valley mule deer is an excellent predictor of the growth trend for the population. In years when bitterbrush made up less than 10% of the diet the population declined, and in years when bitterbrush made up greater than 10% of the diet the population increased. During drought years kidney fat indices of deer were strongly correlated with leader length (growth) of bitterbrush. Kidney fat in turn is a good predictor of fetal rates for Round Valley mule deer, which in turn influences the population.

The recent loss of nearly 10,000 acres of bitterbrush in Round Valley and 2,500 acres in the Birch Fire between Swall Meadows and Tom's Place due to wildfires has significantly reduced the available forage for this deer herd. Any change in land use that further results in the loss of bitterbrush acreage could have a significant long-term impact on the Round Valley wintering deer population. The Department is concerned not only with the ability of mule deer to move through the site, but also with the loss of valuable bitterbrush which is crucial for sustaining this deer herd during the winter. The loss of 68 acres of prime winter range habitat would be a significant impact on the wintering deer herd.

In order to reduce project-related impacts to a less than significant level, Caltrans will need to develop a mitigation plan that will mitigate for the loss of bitterbrush habitat. Bitterbrush is difficult at best to propagate and establish. The mitigation plan should contain a discussion of the logistics of completing the proposed mitigation plan. The qualifications of the individuals developing the plan should be discussed, as well as the expected responsible parties who will propagate, plant, and maintain the mitigation areas. Revegetation will need to be done with plants grown from local seed. Mitigation would most likely occur on adjacent public land managed by Forest Service or BLM. Caltrans will need to obtain a commitment from these agencies to allow the mitigation on public land.

4

The impacts of additional traffic by extending Lower Rock Creek Road to Tom's Place include an increase in road-killed deer and other wildlife. Wider shoulders and a greater travel width could also increase mortality among less mobile wildlife species (small mammals, amphibians and reptiles) that may take longer to cross the travel way. An analysis of these potential impacts should be completed and included in a revised document. An analysis of

5

potential impacts to wildlife from vehicle collisions should focus not just on deer, but on all wildlife species residing within the project area. Any wildlife road-kill data available from the project area for the last 10-years should be incorporated in the document for independent review. At a minimum, this data should include date, species of wildlife, sex, age, and post-mile location. In addition, because Caltans road-kill records are often incomplete due to inconsistencies in data collection and reporting, a preconstruction wildlife mortality survey encompassing at least an entire year is highly recommended. The survey should focus on identifying wildlife crossing zones for the purpose of formulating mitigation measures necessary to decrease wildlife/vehicle collisions within the project area. Specifically, the preconstruction survey should: 1) identify wildlife/highway conflict zones (locations where animals are most likely to come in contact with the highway) created by terrain and habitat features in the project area; 2) identify wildlife crossing zones where animals have the greatest potential for crossing the

highway in the project area; 3) identify wildlife species and numbers of road-kills impacted by the present highway, and the numbers of road-kills potentially impacted by the proposed design; and 4) formulate mitigation measures designed to reduce the potential number of wildlife road-kills in the project area. The efficacy of wildlife crossing structures should be evaluated as a means of minimizing the number of wildlife/vehicle collisions in the project area.

6

The Department supports the use of cut and fill slopes as proposed in the project. Retaining walls could form barriers to movement for most wildlife species inhabiting the project area. Moreover, retaining walls constructed across movement corridors, such as riparian habitats, could limit the ability of less mobile species (e.g. amphibians) to adequately disperse into seasonal habitats required for breeding, foraging, and rearing of young. Additionally, wildlife-vehicle collisions can be exacerbated near the ends of such structure where animals are forced to cross the highway. Preference should be given to the use of fill slopes over walls.

7

Under §1600 et seq of the Fish and Game Code, the Department requires the project applicant prior to the applicant's commencement of the activity to notify the Department of any activity that will divert, obstruct or change the natural flow or the bed, channel, or bank (which includes associated riparian habitat) of a river, stream or lake, or use material from a streambed. Streams include, but are not limited to, intermittent and ephemeral streams, rivers, creeks, dry washes, sloughs, blue-line streams, and watercourses with subsurface flow. Based upon information in the notification for a project, the Department is required to make a finding as to whether the activity may substantially adversely affect an existing fish or wildlife resource. If such a finding is made, then the project proponent is required to enter into a Streambed Alteration Agreement with the Department.

Based on information contained in the CEQA document, the project will occur in or near and potentially impact one or more waterways in the project vicinity. In addition, it appears the proposed project could substantially adversely affect impact fish or wildlife resources associated with the stream(s). As such the project proponent should notify the Department as required by §1602 of the Fish and Game Code and a Streambed Alteration Agreement will likely be necessary.

Issuance of a Streambed Alteration Agreement by Department is considered a discretionary action. As such, it requires CEQA compliance actions by the Department as a responsible agency. The Department, as a responsible agency under CEQA, must consider the Lead Agency's CEQA document for the project. However, if the document does not fully identify potential impacts to lakes, streams, and associated resources (including, but not limited to, riparian and alluvial fan sage scrub habitat) and provide adequate avoidance, mitigation, monitoring and reporting commitments, additional CEQA documentation will be required prior to execution (signing) of the Streambed Alteration Agreement. In order to avoid delays or repetition of the CEQA process, potential impacts to a lake or stream, as well as avoidance and mitigation measures need to be discussed within this CEQA document. These impacts may include but are not limited to the following items: 1)effects on state and/or federally listed species, and state fully protected species or species of special concern, 2) how the proposed project may alter stream biological characteristics such as changing species composition through the introduction of non-native plants or animals, changing the availability of spatial habitat for any species, change the amount of shelter or escape cover for any species, changing any aspect of the aquatic or terrestrial food chain, changing the availability or quality of any migratory corridor, or changing the availability of fish passage at the up or downstream portion of the creek, 3) effects on water quality and potential adverse impacts from any increased

runoff, sedimentation, soil erosion, and/or urban pollutants on streams and watercourses on or near the project site. If it is determined that the proposed project will have a significant adverse impact in regards to the issues described above, the applicant must provide a series of project alternatives or mitigation measures that avoid, minimize, rectify, reduce, eliminate or compensate for the impact.

8

The Department disagrees with the determination made by Caltrans that the appropriate level of California Environmental Quality Act environmental documentation for this project is an Initial Study/Negative Declaration. The proposed project and more specifically, the new frontage road, will have a potentially significant impact by interfering substantially with the movement of the Round Valley deer herd and other wildlife that occur in the area as discussed above. A new frontage road will create an additional road hazard to wildlife attempting to cross the road. Under the Mandatory Findings of Significance (CEQA Guidelines §15065), the project will have potentially significant impacts that are individually limited, but cumulatively considerable. The loss of 68 acres of bitterbrush scrub in combination with the approximately 10,000 acres lost in Round Valley and the 2,500 acres lost in the Birch Fire wildfires result in a significant loss of forage for the Round Valley deer herd. The Department recommends that Caltrans prepare an Environmental Impact Report for this project.

Thank you for the opportunity to comment on the proposed project. Questions regarding this letter and further coordination on these issues should be directed to Ms. Alisa Ellsworth, Associate Wildlife Biologist, at (760) 872-1173 and Tim Taylor, Associate Wildlife Biologist, at (760) 872-1173.

Sincerely,

Denyse Racine

Denyse Racine
Senior Wildlife Biologist
Habitat Conservation Program

cc: Adrienne Disbrow, CDFG
Denyse Racine, CDFG
Alisa Ellsworth, CDFG
Tim Taylor, CDFG

Response 1: A complete list of state and federal listed and candidate species is contained within the Natural Environment Study for the proposed project. The California Natural Diversity Database was consulted prior to any field surveys within the project limits. A species list was also obtained from the U.S. Fish and Wildlife Service. Based on this information, qualified Caltrans biologists conducted biological surveys during the appropriate seasons and when necessary, following any established protocol (for individual species). Typically, Caltrans biologists are not required to consult with California Department of Fish and Game personnel regarding survey protocols for listed species, as this information is readily available from a variety of other sources (such as publications written by the California Department of Fish and Game, U.S. Forest Service, Bureau of Land Management and a variety of online sources and "other literature"). For a complete list of potential sensitive species that were identified as having the potential to occur within the project limits, please refer to the Natural Environment Study. Species mentioned in the Department of Fish and Game letter dated January 27, 2004 have been addressed in the Natural Environment Study. Please call Caltrans biologist Craig Olofson in Bishop at (760) 872-0692 for a copy of the Natural Environment Study and for any further questions regarding these species.

The proposed project does not fall within the Mt. Tom 7.5-minute quadrangle as suggested in the Department of Fish and Game letter dated January 27, 2004, but instead falls within Rovana, Casa Diablo Mt. and Tom's Place 7.5-minute U.S. Geological Survey quadrangles. Based on the field surveys, it was determined that no sensitive species would be temporarily or permanently affected by this project as currently proposed. As such, a "No Affect" determination was made for state and federally listed species. Coordination between the California Department of Fish and Game and Caltrans consisted of routine telephone conversations between Craig Olofson and Department of Fish and Game biologists, Tim Taylor and Dr. Becky Pierce. A variety of "other literature" was also consulted prior to and during these field surveys (see List of References in the Natural Environment Study, p.12). All field surveys took place prior to the preparation and completion of the Natural Environment Study and Environmental Assessment/Initial Study.

Caltrans informed the public and public agencies via mail, e-mail, public notices and announcements in the newspaper of the availability of the Environmental Assessment/Initial Study and technical studies, including the Natural Environment Study.

The Environmental Assessment/Initial Study concentrated on areas with potential environmental impacts rather than listing and discussing every individual species. The level of detailed discussion requested by the Department of Fish and Game would not be

appropriate for an Environmental Assessment/Initial Study-type document, which is supposed to provide a summary of the potential impacts caused by the proposed project. However, a more detailed analysis was done during the preparation of the Natural Environment Study. Caltrans can provide the California Department of Fish and Game with a copy of the Natural Environment Study to show a more detailed analysis of all state and federally listed sensitive species that were identified as having the potential to occur within the project area limits.

However, language was added to the Environmental Assessment/Initial Study referring to the Natural Environment Study and explicitly mentioning that no state special-status species would be negatively affected by the proposed project.

Response 2: Caltrans recognizes that certain migratory birds may try to nest on structures or in trees, shrubs or other vegetation within the project limits. However, no large mature Jeffrey Pines (which could be used by raptors as nesting or roosting trees) are planned for removal at this time. Should this change, trees would be removed outside of the preferred nesting seasons of any sensitive species. Any large tree removal would occur only after securing permission from the current landowner (i.e., the U.S. Forest Service) and in consultation with U.S. Forest Service biologists. If required, the trees would be removed in the winter months, typically between November 1 through February 28. Caltrans would ensure the contractor adheres to the Migratory Birds Special Provisions (see Appendix D of this document). The contractor shall notify the resident engineer and the biologist 15 working days prior to beginning any ground- or vegetation-disturbing work between February 15 and September 1. The engineer will request a pre-construction survey by the Caltrans biologist prior to the beginning of work between February 15 and September 1. If evidence of nesting birds is discovered, the contractor shall avoid these locations until the birds and/or their young have left their nests. If evidence of migratory bird nesting is discovered after beginning work, the contractor shall immediately stop work and notify the resident engineer and/or project biologist.

Caltrans did state in the Natural Environment Study and added to the Environmental Assessment/Initial Study that no resident nesting state-listed species were observed during the surveys for this project. Therefore, Caltrans does not anticipate any temporary or permanent impacts to state-listed species. However, since migratory state-listed birds could potentially travel through the project area at any given time, a Caltrans biologist would monitor ground-disturbing activities throughout the proposed construction season.

Response 3: Caltrans is very concerned about the number of deer killed along highways in the Eastern Sierra. Safety is important for both wildlife and the traveling motorist.

Caltrans recognizes that while mule deer are not a listed species under either state or federal law, their numbers currently appear to be in decline statewide in some areas. Caltrans disagrees with the statement "the project will impact 215 acres of pristine habitat" as most habitat adjacent to any highway corridor can hardly be considered "pristine" by any standard. However, the original acreage figures listed in the Environmental Assessment/Initial Study were approximations based on preliminary design details and have since been re-examined and refined to reflect a more accurate estimate of approximately 60.7 hectares (150 acres) total permanent disturbance. The most recent estimate shows the following breakdown: 19.8 hectares (49 acres) Shadscale/Sagebrush Scrub, 10.1 hectares (25 acres) Pinyon/Jeffrey Woodland and 30.8 hectares (76 acres) of Bitterbrush scrub-dominated pumice flats.

Caltrans typically prepares a re-vegetation plan for projects of this magnitude. This re-vegetation plan would include the re-establishment of Bitterbrush habitat as well as other disturbed areas. Typically, this is done by the district landscape architect and reviewed by the project biologist to ensure species composition mimics the existing vegetation. Since Bitterbrush is not critical habitat for a listed species, Caltrans disagrees with the Department of Fish and Game's determination that "any change in land use that further results in the loss of Bitterbrush acreage could have a significant long term impact on the Round Valley wintering deer population." Caltrans recognizes the importance of Bitterbrush habitat to the continued health and vigor of local deer populations. To minimize temporary and permanent impacts on this habitat type, Caltrans proposes to prepare a plan to re-plant and monitor Bitterbrush in the vicinity of the proposed project. To prepare the plan, Caltrans would work with local Bitterbrush re-vegetation specialists before formalizing any plan for re-vegetating areas recently burned over by the Birch and Mt. Tom fires. Craig Olofson (Caltrans project biologist) is consulting with the U.S. Forest Service and others to identify appropriate areas where Bitterbrush can be planted to compensate for the Bitterbrush habitat losses anticipated by the proposed project. Typically, Caltrans would then hire one or more contractors to grow and plant a pre-determined acreage amount of Bitterbrush on Bureau of Land Management-managed and U.S. Forest Service-managed lands, and to monitor the Bitterbrush during the plant establishment period agreed to by the participating agencies.

Caltrans acknowledges that the loss of Bitterbrush due to this project in addition to the loss during the most recent wildfires does reduce forage for Round Valley mule deer in the project area. However, since the project is planned to be constructed in two phases—with Phase I not expected to go into construction for another four years (Phase I scheduled for 2007/2008 construction season) and Phase II for another 10 years (Phase II

tentatively scheduled for 2011/2012)—it appears nature may have adequate time to naturally reestablish a portion of the vegetation destroyed during those two fires.

In addition, Caltrans is exploring a project proposal to start the propagation and site selection for the proposed Bitterbrush replacement plantings associated with impacts on Phase II of the project. This would provide an opportunity to get an early start with reestablishing habitat prior to the planned removal of such habitat during Phase II of the project.

With the exception of the proposed frontage road, most of the Bitterbrush that would be removed during project construction would be in areas close to the highway, inside Caltrans' regular maintenance corridor. From a safety standpoint, a certain amount of "vegetation/Bitterbrush control" along the edge of the highway corridor could be beneficial to both the deer and traveling public; Caltrans prefers not to plant Bitterbrush along highways as part of re-vegetation efforts (after the completion of a construction project) so deer won't be drawn to those areas.

Response 4: No supporting data exists to claim an expected increase of wildlife mortality with the newly proposed frontage road extension. While these additional lanes could be considered another obstacle for wildlife crossing the road, vehicles traveling this road are usually going at speeds lower than those used on U.S. Highway 395, thus allowing drivers more time to dodge any deer or other wildlife crossing this road.

Construction of the new frontage road from Lower Rock Creek Road to Crowley Lake Drive may decrease traffic volumes along this portion of U.S. Highway 395 by diverting local vehicle trips onto the proposed frontage road (i.e., moving traffic from a high-speed road to a low-speed road). Speeds on this proposed county road are expected to be much lower than the 105 kilometers-per-hour (65 miles-per-hour) speed limit on U.S. Highway 395, making crossing the road potentially safer for wildlife. Closing the current intersection of Lower Rock Creek Road and U.S. Highway 395, constructing the frontage road, and moving traffic to the existing intersection of Rock Creek Road and Crowley Lake Road would improve safety because the current intersection is in an area with an increased accident concentration. In addition, constructing the frontage road and closing the Lower Rock Creek Road intersection would reduce potential traffic conflict points.

Even though additional pavement (frontage road) could potentially expose wildlife to the danger of crossing the roadway, traffic volumes and speeds are expected to be very low, therefore reducing the risk to wildlife and motorists as much as possible. In addition, no listed or endangered species have been observed during the biological studies conducted

for the proposed project. If it is determined that culverts throughout the project area need replacing, Caltrans would consider oversizing certain drainage structures to enhance wildlife (small mammal) crossing opportunities, where appropriate.

For motorists, some benefits of the shoulder widening in this rehabilitation project include having more sight distance, more shoulder area and more space to pull off the road in an emergency or to avoid hitting animals on the road. The rehabilitated roadway would give motorists a greater recovery area than what's there now. This could potentially reduce the number of accidents endangering both wildlife and motorists. (The low number of recorded accidents involving deer within the last three years indicates a relatively low deer population in the project area. See statistics under Response 5 below.) While the proposed project would not add additional capacity to this roadway, it would potentially shift some traffic from the high-speed U.S. Highway 395 to the proposed frontage road.

Therefore, Caltrans disagrees with the California Department of Fish and Game that the proposed project would substantially impede the movement or increase the mortality rate of deer within the project area.

Response 5: Caltrans' accident database contains all accidents involving deer that were reported to the California Highway Patrol and the Inyo & Mono County Sheriff. This database can be analyzed for deer accidents for any stretch of road, as long as the accidents were reported. A three-year accident analysis was performed for the project area and showed that four accidents involving deer occurred between May 1, 1999 and April 30, 2002. These four accidents occurred in the Phase I project area where the proposed project would add shoulders on the northbound lanes, therefore, improving visibility and increasing room for motorists to avoid deer in the future.

In addition, Caltrans does have data identifying deer mortality along the U.S. Highway 395 corridor. For the past three years, an extensive effort has been undertaken by Caltrans' biologists and the local highway maintenance personnel to record incidences of large mammals killed, the date, the sex, age and approximate highway postmile location. This data is reliable, has been collected in a systematic and consistent fashion, and is being recorded in a database that is updated by biologists on a monthly basis. Five target species have been selected for recording: deer/elk, cougar, bear, bobcat, and coyote. These were selected as they are typically the largest mammals killed along U.S. Highway 395 and are the animals targeted for removal by highway maintenance personnel. This data is available for review by the Department of Fish and Game if so desired. Previous,

less definitive data also exists regarding deer/vehicle collisions along this portion of U.S. Highway 395.

At the present time, due to the low number of recorded deer-vehicle accidents, the construction of large wildlife-crossing structures cannot be justified as part of the project (this is a rehabilitation project, not the construction of a new highway). In addition, the California Department of Fish and Game, the California Highway Patrol and Caltrans did not identify the project area as a high deer-hazard area in earlier studies nor as a significant deer migration corridor. This is supported by the low number of recorded deer-involved accidents (four) in the project area that occurred in the latest three-year accident study.

Response 6: Comment noted.

Response 7: Comment noted. Caltrans discussed each of the required items in the Environmental Assessment/Initial Study and/or in the Natural Environment Study available for review at the Caltrans office at 2015 E. Shields Avenue, Suite 100, in Fresno, California (zip code 93726). A copy of the Environmental Assessment/Initial Study was provided to the California Department of Fish and Game. A 1600 Streambed Alteration agreement would be requested from the California Department of Fish and Game before construction for the proposed project.

Response 8: Comment noted. Caltrans disagrees with the California Department of Fish and Game's assessment that an Initial Study with a Negative Declaration for this project is not the appropriate level of documentation under the California Environmental Quality Act. As stated in the Environmental Assessment/Initial Study and discussed in Caltrans' response to comments above, neither individually nor cumulatively significant impacts are expected as part of the proposed project. The mentioned mule deer are not listed on state or federal endangered species lists, nor is the Bitterbrush vegetation habitat for endangered species under the California Environmental Quality Act. Therefore, no significant impacts under the California Environmental Quality Act are expected as a result of this project, and the preparation of an Environmental Impact Report is not warranted for the proposed project.

Caltrans would welcome the opportunity to meet with the Department of Fish and Game and discuss the Natural Environment Study in detail. This would also provide an opportunity for both departments to compare data on deer/vehicle collisions within the proposed project area. Caltrans' project biologist Craig Olofson can be reached in the Caltrans Bishop office for further discussion at (760) 872-0692.

Department of Water and Power the City of Los Angeles

JAMES K. HAHN
Mayor

Commission
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FRANK SALAS, *Chief Operating Officer*

February 10, 2004

Mr. Juergen Vespermann
Environmental Planning
2015 East Shields Avenue, Suite 100
Fresno, CA 93726

Dear Mr. Vespermann:

Subject: Initial Study/Environmental Assessment
Sherwin Summit Rehabilitation Project

The Los Angeles Department of Water and Power (LADWP) has the following comments and concerns on potential impacts regarding the State of California Department of Transportation's (Caltrans) above-noted project on U.S. Highway 395:

1
- LADWP is the main property owner along the highway project located in Sections 4, 5, and 9, Township, 6 South, Range 31 East, MDM, County of Inyo. Caltrans may need to acquire additional rights-of-way from the LADWP in these areas.

2
- LADWP would like to review detailed plans of all culvert extensions and replacements prior to final design.

3
- Does Caltrans plan to install an oil/water separator where highway runoff enters Rock Creek?

4
- State-listed threatened and endangered species need to be included in the environmental assessment/initial study.

Thank you for the opportunity to comment on your project. If you have any questions regarding these comments or concerns, please write to this office at 300 Mandich Street, Bishop, California 93514-3449, attention Real Estate, or you can reach the Real Estate office by phone at (760) 873-0370.

Sincerely,

Gene L. Coufal
Manager
Aqueduct Business Group

c: Mr. Tim Shultz
Real Estate

Water and Power Conservation . . . a way of life

❑ Bishop, California mailing address: 300 Mandich Street • Bishop, CA 93514-3449 • Telephone: (760) 872-1104 • Fax (760) 873-0266
111 North Hope Street, Los Angeles, California • ❑ *Mailing address:* Box 51111 • Los Angeles, CA 90051-0100
Telephone: (213) 367-4211 • *Cable address:* DEWAPOLA

Response 1: Caltrans would work closely with affected property owners during the right-of-way acquisition process.

Response 2: Caltrans would continue to coordinate closely with the Los Angeles Department of Water and Power during final design of the culvert modifications.

Response 3: The construction of an oil/water separator is currently not part of this project.

Response 4: The Natural Environment Study contains a list of all federal and state special-status species in the project study area. The complete list was too comprehensive to be shown in the Environmental Assessment/Initial Study and is shown only in the technical document. Copies of the Natural Environment Study are available from the Environmental Branch located in the Bishop office at Caltrans District 9.

GEOLOGICAL INFORMATION SERVICES
2930 Salem Place, #608 • Reno, Nevada • 89509
Phone: 775-825-6246 • Fax: 775-825-6246
E-mail: fhopson@geoinfoservices.net
URL: http://www.geoinfoservices.net

January 7, 2004

Mr. Juergen Vespermann
Caltrans, Environmental Planning
2015 E. Shields Avenue, Ste. 100
Fresno, CA 93726

Dear Mr. Vespermann,

1 I am strongly against Caltrans' plan to lay back the road cut on U.S. 395 between kilometer posts 14.5 and 14.8, the so-called *Big Pumice Cut*. My suggestion is don't do it!

The *Big Pumice Cut* exposes the geologic relationship between the Bishop Tuff and the underlying Sherwin Till, which was deposited by one of the oldest Pleistocene glaciation advances in California. The Bishop Tuff was erupted catastrophically from nearby Long Valley Caldera about 760,000 years ago, thereby putting a minimum age limit on the Sherwin Till. Until the Bishop Tuff was dated, the age of the till was poorly known. The *Big Pumice Cut* is one of the classic road cuts in the western United States and is visited by college and university geology classes from all over California and western Nevada.

2 While I agree that a new "...cut face would reveal more detail..." between the tuff and the glacial till, this benefit would only be temporary since any material eroding from the cut face would be more likely to accumulate on the face rather than on the road surface. This accumulation of material would eventually obscure the geology on the cut face. Also, it would be far easier to see the geology if the cut face were at a high angle rather than a shallow one.

In conclusion, make the improvements along this stretch of U.S. 395 if you must, but do it in such a way that the *Big Pumice Cut* is not laid back to a shallow angle. To do so would do more harm to the aesthetic appeal of the road cut than good.

Sincerely,

R. Forrest Hopson

R. Forrest Hopson, M.S.
Owner, Geologist

RFH

Response 1: Comment noted.

Response 2: Caltrans agrees that a steeper cut face would be better for showing the stratigraphic contact. Caltrans recognizes the importance of the Big Pumice Cut to the earth sciences community and would try to achieve a balance between minimizing rock fall onto the road surface and preserving visibility of the cut. The final slope of the cut face has not been determined and would be evaluated based on that objective, as well as slope stability analysis and constructability criteria.

5325 Whitsett Avenue, #6
North Hollywood, CA 91607
January 10, 2004

Caltrans
Attn: Mr. Mike Donahue
Southern Sierra Environmental Analysis Branch
2015 E. Shields Avenue #100
Fresno, CA 93726

Dear Mr. Donahue:

I recently reviewed a copy of the Environmental Assessment/Initial Study (EAIS) prepared for the proposed Sherwin Summit Rehabilitation Project and would like to comment on one aspect of the proposal. The issue of concern is the modification of the Big Pumice Cut, which is located between Sherwin Summit and the intersection at the upper end of Lower Rock Creek Road.

The proposed modifications will affect the Big Pumice Cut, which Caltrans proposes to cut back during construction. I don't have a problem with the roadcut being cut back, inasmuch as the exposure could use a freshening up. My main concern is the plan to cut it to a lower slope angle. The principal motivation is presumably to try to reduce erosion and minimize debris removal from the toe of the slope, but I am concerned that the lower slope angle will allow vegetation to become established on the Bishop Tuff as well as on the Sherwin till. At present, only the till is highly vegetated, and the top of the denser vegetation delineates the contact between the Bishop Tuff and the underlying Sherwin till. However, if both the tuff and the till are covered by vegetation, there may not be much for geology classes to see at the Big Pumice Cut in the future (say, 40 years from now), other than lots of vegetation on the entire slope.

If the roadcut is to be used for the edification of future generations of geology students, as it has for past generations over nearly half a century, the exposure needs to be viewable. If the entire roadcut is covered by vegetation, it will no longer be viewable and will lose its educational value (for geologists, at least). This roadcut is of historic significance because it was the "smoking gun" which finally settled the question as to the relative ages of the Sherwin till and Bishop Tuff, a controversy that dated back to the 1920's.

The roadcut was studied by the late Prof. William C. Putnam of UCLA back in 1950, but the definitive study was published by Prof. Robert P. Sharp of Caltech in 1968. It was Dr. Sharp who attached the name "Big Pumice Cut" to this roadcut. A number of geologic field guides discuss the "Big Pumice Cut." I enclose a photocopy of part of a field guide that I originally published in 1976 and revised in 2001. It discusses the

significance of the roadcut to geologists, and to anyone else who is interested in the natural history of the region.

Perhaps it would be possible to make the proposed cut steeper so as to discourage the establishment of vegetation on the tuff. I hope that Caltrans will be able to develop an alternative plan for the new cut that would perpetuate its pedagogical usefulness to geologists for many decades to come.

Many thanks for your kind consideration of my concerns.

Sincerely yours,

Steve Lipshie

Steven R. Lipshie, Ph.D.
R.G. 5943, C.E.G. 1886,
C.HG. 410, R.GP. 159

2

Response: Comment noted. Caltrans is currently in the preliminary design stage of the proposed project. Final design for Phase II of this project would not occur for quite some time. However, a number of alternatives are being discussed for the treatment of the geological formation, the Big Pumice Cut.

The rate of re-vegetation cannot be conclusively determined at this time. Since initial construction, the Sherwin Till at the cut face has shown significant re-vegetation. However, the Bishop Tuff is still denuded, which appears related to continued erosion of the tuff at the cut face. Erosion of the Bishop Tuff is still anticipated at the shallower slope, but at a reduced (and as yet unquantified) rate. Whether this reduced rate would support re-vegetation cannot be stated at this time. Caltrans recognizes the importance of the Big Pumice Cut to the earth sciences community and would try to achieve a balance between minimizing rock fall onto the road surface and preserving visibility of the cut. The final slope of the cut face has not been determined, but would be evaluated based on that objective, as well as slope stability analysis and constructability criteria.

[illegible]

Senate
California Legislature

COMMITTEES
PUBLIC EMPLOYMENT AND RETIREMENT
VICE CHAIRMAN
APPROPRIATIONS
HEALTH AND HUMAN SERVICES
REVENUE AND TAXATION
TRANSPORTATION

SENATOR
ROY ASHBURN
EIGHTEENTH SENATE DISTRICT
REPUBLICAN CAUCUS VICE CHAIRMAN

January 9, 2004

Thomas P. Hallenbeck
District 9 Director
California Department of Transportation
500 South Main Street
Bishop, CA 93514

Dear Mr. Hallenbeck:

Thank you for forwarding a copy of the Initial Study and Environmental Assessment regarding the Sherwin Summit Rehabilitation Project.

I appreciate you keeping the public and myself updated on this important project. Highway 395 is in great need of improvement and I appreciate your efforts to move forward with this project. It is most beneficial to have the opportunity to study the implications that this project will have on the environment, as well as traffic and driver safety.

Thank you again for taking the time to forward this information to me. You also have my gratitude and encouragement for all that you do for transportation development and safety. Please do not hesitate to contact me if I may be of any assistance.

Best regards,

Roy Ashburn

Response: Comment noted.

Ellen Hardebeck
Control Officer

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT
157 Short Street * Bishop, California 93514 * (760) 872-8211 * Fax (760) 872-6109

January 27, 2004

Mr. Mike Donahue, Branch Chief
Southern Sierra Environmental Analysis Branch 175
California Department of Transportation
2015 East Shields Avenue, Suite 100
Fresno, CA 93726

Sent by email transmission to:
Mike_Donahue@dot.ca.gov

With the original document to follow by U.S. Postal Service Delivery

RE: ***INITIAL STUDY/ENVIRONMENTAL ASSESSMENT for the Sherwin Summit Rehabilitation Project*, Between Tom's Place and 10 miles north of Bishop.**

Dear Mr. Donahue:

Great Basin Unified APCD staff appreciates this opportunity to review and comment on the above mentioned project. Our comments are meant as guidance for the California Department of Transportation as Lead Agency and should be incorporated in the Final Mitigated Negative Declaration. Our specific comments are as follows:

Comment _ 1) On page 35, **Paragraph 3.8.3 Mitigations,** the final Mitigated Negative Declaration should put forward all applicable APCD Prohibitory Rules that apply to construction activities mentioned in the project description. Specifically, Rule 400–

Opacity, Rule 401-Fugitive Dust, and Rule-402 Nuisance (Ref: http://www.arb.ca.gov/drdb/gbu/cur.htm).

Comment _ 2) The District feels it would benefit Caltrans if there were responsible personnel on hand to accurately gage the legal limits of construction dust that is generated. Caltrans should be able to police their own projects along with monitoring the dust suppression activities of their construction contractors. The District would encourage having one or more Caltrans supervisors receive a certificate of training in EPA's Method 9, Visible Emission Evaluation techniques (Smoke School). This course is given around the State by CARB on a regular basis (Ref: http://www.arb.ca.gov/training/100_1.htm).

Comment _ 3) It should be pointed out in the Initial Study/Environmental Assessment that this project location is frequently subject to very high wind events. The District would like to know what additional precautions are planned in the event high winds are encountered, especially wind events that occur over the weekend and during holiday periods?

Mr. Mike Donahue, Branch Chief
January 27, 2004
Page 2 of 2

Thank you for the opportunity to comment on the ***INITIAL STUDY/ ENVIRONMENTAL ASSESSMENT for the Sherwin Summit Rehabilitation Project, Between Tom's Place and 10 miles north of Bishop.*** Please continue to forward all future material to the District. If the staff can be of further assistance please do not hesitate to call the District.

Sincerely,

_____

Larry Cameron
Air Pollution Specialist
cameron93514@yahoo.com

Response 1: A summary of the standard specifications and a reference to the mentioned resources (Rule 400–Opacity, Rule 401–Fugitive Dust, and Rule–402 Nuisance (Ref: http://www.arb.ca.gov/drdb/gbu/cur.htm) were added to the environmental document in Chapter 3, section 3.8.3.

Response 2: Caltrans policy is and has been that the resident engineer is responsible for the monitoring of the fugitive dust levels from the project. The construction inspectors assigned to the project also monitor and report to the resident engineer site conditions that may be hazardous, dangerous, or in violation of local air, noise, or water requirements. The offer to include Caltrans staff in Environmental Protection Agency training is appreciated, but not practical due to the time required to become certified and the rotational nature of construction staff.

Response 3: Currently, the dust treatment is the responsibility of the contractor. The special provisions contain language on dust control. The contractor and Caltrans are responsible for safety of traffic and the public during construction. Contractors are expected to respond to the dust issue by having personnel on-call and taking appropriate action throughout the length of the contract, including on weekends. Caltrans would stress the importance of dust-related problems during the pre-construction meetings to the contractor. In addition to water treatments during the workweek, the contractor would be advised to pay special attention to water treatment of exposed areas on the last workday before a weekend or holiday.

January 30, 2004

Mike Donahue
Southern Sierra Environmental Analysis Branch
2015 E. Shields Ave. #100
Fresno, CA 93726

Dear Mr. Donahue:

1 I am writing in regards to the Sherwin Summit Rehabilitation Project Environmental Assessment/Initial Study. I would request that Caltrans hold public hearings so that people can really understand the proposed project and it's potential impacts.

2 I also request that Caltrans conduct further environmental study of the proposed project area, thoroughly analyzing the tremendous impacts that such a project would have on the area. The proposed project would have devastating consequences on wildlife, natural vegetation, and numerous archeological sites. Traffic safety at the intersection of Tom's Place and Sunny Slopes and Highway 395 would be negatively impacted. (Currently, visibility at this intersection is very limited as it is located at the top of a rise.)

3

4 There needs to be a much more comprehensive study of the Sherwin Summit Rehabilitation Project in the form of an EIR. Also there needs to be opportunities for public hearings regarding the proposed project.

Thank you for your consideration.

Ann Klinefelter
5201 Westridge Rd. Rt. 2
Bishop, CA 93514

Response 1: Caltrans provided ample opportunity for public input during the extended comment period from December 18, 2003 to April 5, 2004. In addition, as requested, Caltrans held a public hearing on March 24, 2004 from 5:00 p.m. to 7:00 p.m. at the Paradise Fire Station in Bishop.

Response 2: Potential impacts to biological resources, wildlife, natural vegetation and archaeological sites have been thoroughly analyzed during the course of this project. The studies showed that no major impacts are expected as a result of this project to any of the resources described.

Response 3: In Caltrans' professional judgement, traffic safety would not be negatively affected at the intersection of U.S. Highway 395 and Rock Creek Road (Tom's Place, Sunny Slopes) due to this project. The intersection has a standard sight distance as long as vegetation in the area is properly cut back.

Response 4: Comment noted. Caltrans disagrees that an Initial Study with a Negative Declaration for this project is not the appropriate level of documentation. As stated in the Environmental Assessment/Initial Study and discussed in Caltrans' response to comments above, neither individually nor cumulatively significant impacts are expected as part of the proposed project. Therefore, the preparation of an Environmental Impact Report is not warranted for the proposed project.

As mentioned in Response 1, a public hearing was held on March 24, 2004.

Paul C. Hancock
PO Box 600/720 Indian Springs Rd.
Lone Pine, California 93545
760-876-4137 pack@qnet.com

February 1, 2004

Mike Donahue
Southern Sierra Environmental Analysis Branch
2015 E. Shields Ave. #100
Fresno, CA 93726

Re: Sherwin Summit Rehabilitation Project, Environmental Assessment Comments

Dear Mr. Donahue,

Thank you for considering these comments, even though they are submitted somewhat beyond the deadline. I only became aware of the potential impacts of the project last week, but because of other business I was not able to prepare comment until today.

The comments that are included here primarily address the proposed impacts to Big Pumice Cut, located near the intersection of Lower Rock Creek Road.

I have visited this site on numerous occasions both as a student and as an instructor. Big Pumice Cut is one of the most geologically significant exposures in Southern California on US 395. Another comparable exposure would be the road cut near Palmdale across the San Andreas Fault. Big Pumice cut provides the only clear exposure of the Sherwin Till overlying Bishop Tuff, no other exposure is comparable, it was in fact during previous road construction that this relationship was first revealed.

1

The Initial Study indicates that the current preferred construction method would be to lay the cut back to reduce erosion, and reveal more detail. Laying the face back at a shallower angle will not provide as suitable an exposure for geological investigation or education. The preferred orientation of an geological exposure is a vertical or nearly vertical face, which is why during subsurface investigations trenches are trimmed as such. Obviously a vertical face would not be suitable at this location because of the material present. Also, a shallower face might also encourage vegetation growth, which would eventually obscure the features exposed here.

A possible alternative to laying the face back would be a stepped terrace similar to the of the previously mentioned Palmdale cut. The stepped terrace would preserve a sub vertical face, but eroded materials would fall on the horizontal portions of the terrace, thereby reducing the materials that might fall on the roadway. The terraces would also provide a safe location for students or others to view the exposure without being on the shoulder of the highway.

2

Also related to safety, Caltrans may want to consider constructing a suitable turnout, or at least a wider shoulder in this area. The current turn out provides room for only a few cars. During US 395 highway construction near Lone Pine in 1998, Caltrans constructed a large turn out adjacent to the 1872 Earthquake Grave Site to provide room for numerous parked vehicles. On many occasion I have observed the convoy of College vans safely parked at this location while the students walk up to the gravesite to view the Owens Valley Fault and the Sierra Nevada beyond. A large turnout at Big Pumice Cut would provide much safer parking and acceleration and deceleration.

In conclusion, I again wish to thank Caltrans for soliciting comments regarding the proposed construction and I also hope that Caltrans will consider other alternatives to the "lay it back" alternative for Big Pumice Cut. I also hope you will consider providing safer parking for visitors to this site.

Sincerely,

<S>

Paul Hancock

Response 1: At this time, a terraced or benched cut is not under consideration, for the following reasons: 1) current design criteria and estimated strength of the geologic materials would not support a benched cut, and 2) allowing people on the cut face presents a safety hazard to the motoring public and the pedestrian.

Climbing on the cut face increases erosion. Therefore, slope stability and preservation of the visible contact precludes walking on the slope. Additionally, allowing people on the cut face cannot be encouraged for safety reasons, due to proximity to the highway and the presence of high-speed traffic with limited sight distances on the curve.

Response 2: Retaining and developing the existing turnout is a desirable alternative and will be considered, with appropriate engineered restrictions to prohibit foot traffic across the road or on the cut face.

120 Olivia Lane
Big Pine, California 93513
January 19, 2004

CalTrans
ATTN: Mike Donahue
Southern Sierra Environmental Analysis Branch
2015 East Shields Avenue #100
Fresno, CA 93726

Via email: Mike_Donahue@dot.ca.gov

Re: Sherwin Summit Rehabilitation Project Environmental Assessment/Initial Study on U.S. Highway 395

Dear Mr. Donahue:

I have read the EA /Initial Study, and my comments for the Administrative Record include, but are not limited to the following:

The document is deficient in not addressing biological corridors across the 395.

1 The cumulative impacts of widening various sections of Highway 395 are to isolate wildlife on either side of the highway. This is especially significant when the highway is flanked on both sides by wild lands. When wildlife, especially large mammals, cannot cross the highway, inbreeding threatens their survival. In addition, highway 395 can cut wildlife off from sources of winter forage.

2 Although the document states that there would be no impacts to mule deer, no mule deer studies are listed in the references. The Sherwin grade mule deer come from an area of the Sierra Nevada 10 times larger than their wintering area.

CalTrans needs to keep maps of the locations of where wildlife is killed on the

3 395, and provide overcrossings or undercrossings suitable for large mammals as part of road rehabilitation. In addition, the impact of 200 cars per day on the frontage road to wildlife could be severe.

4 How will replacing riparian vegetation with rocks effect the usefulness of the stream corridor for wildlife movement across the 395?

5 What effects would lighting at the chain areas have on wildlife? How can these be mitigated? Could chain areas could be used as an opportunity for interpretive signage?

6 What is the percent of weed seeds in “certified” straw?

7 In the mandatory findings on page 78, the answers to a and b, impacts to wildlife and cumulative impacts, should be "yes."

8 A hearing should be held, and an EIR should be done.

Yours truly
Constance Spenger

Response 1: U.S. Highway 395 has been on the current alignment for many years. This project does not propose a new highway on a new alignment and would not add capacity to the road system. Therefore, wildlife should be somewhat accustomed to the existing disturbance typically associated with the highway there.

The existing U.S. Highway 395 corridor provides more than adequate habitat (on either side of U.S. Highway 395) for wildlife that may live or exist adjacent to the highway. A shoulder-widening project would not prevent wildlife from crossing the highway (wildlife have been crossing this highway for many years) and would not add any additional barrier for wildlife. This project should not prevent large mammals from crossing the highway and therefore, will not cause inbreeding in the local mammal population. In addition, added shoulder widths would give motorists the opportunity to see wildlife earlier and more room to avoid accidents. This would reduce the potential for future accidents. In addition, there is no conclusive historic evidence that U.S. Highway 395 has cut off wildlife from sources of winter or summer forage and/or holding areas.

Response 2: No specific mule deer surveys have been conducted for this project, as mule deer mortality has not been directly tied to identified/well-established mule deer migration corridors within the limits of the project. In addition, mule deer are neither a state or federally listed threatened or endangered species.

Response 3: While Caltrans does not have maps showing where wildlife is incidentally killed, Caltrans does have a database, which is updated on a regular basis. This data is provided by the Caltrans Maintenance crews operating in the area. In addition, every accident involving a motorist and wildlife reported to the California Highway Patrol and the Inyo & Mono County Sheriff is recorded in the Caltrans accident database, the Traffic Accident and Survey Analysis System. As stated in the Environmental Assessment/Initial Study, only four accidents involving deer were reported during the three-year time period from May 1, 1999 to April 30, 2002.

Neither this type of project (road rehabilitation, not new alignment) nor the frequency of deer crossings and deer mortality warrants the costs for the construction of large mammal overcrossings and undercrossings at this time.

However, predictions for future accidents on the proposed frontage road cannot be made. It is expected that speeds will be much lower on the new frontage road than on U.S. Highway 395, therefore reducing the risk for wildlife and the traveling public. The construction of the frontage road is not a capacity-increasing project, but rather will

remove existing traffic from U.S. Highway 395 and reduce potential traffic conflict points from the existing intersection of Lower Rock Creek Road and U.S. Highway 395.

Response 4: The project does not plan to replace existing riparian vegetation with rocks at Rock Creek. Impacts to vegetation in this area would be temporary during the proposed replacement of the existing culvert. Any permanent impacts to riparian vegetation would be mitigated by supplemental planting of native riparian vegetation at the Rock Creek crossing.

Response 5: The lighting at chain-up areas is not expected to have any effect on wildlife. Lighting at the chain-up areas is necessary for safety and operational reasons. However, Caltrans will consider limiting the hours of operation of the lighting to times of usage (winter months with snow). This would be determined during the final design of this project. In addition, every effort would be made to limit the scattering of light (with localized deflection devices limiting the amount of light spread at the source) outside the chain-up areas during times of operation.

The addition of interpretive signage in chain-up areas is currently not included in the scope of the proposed project, and no money is set aside for it. However, in the past, Caltrans has allowed third parties to place interpretative material at appropriate locations under encroachment permit.

Response 6: The Department of Transportation (Caltrans) does not make the determination for certification. This responsibility is under the supervision of the Secretary of the California Department of Food and Agriculture. Please see California Food and Agriculture Code Section 5101 & 5205 "Certification of Weed Free Forage, Hay, Straw and Mulch."

Certified Weed Free Forage shall be free from propagative plant parts of noxious weeds listed in Section 4500 of the California Code of Regulations. Applications for certification shall be made by the producer to the agricultural commissioner of the county where the crop is growing at least 14 days prior to harvest. The forage crop shall be inspected in the field of origin by the agricultural commissioner no more than 5 days prior to harvest.

Certification attests: Live roots, rhizomes, stolons, seeds, or other propagative plant parts of noxious weeds are not present in the forage to be harvested.

Response 7: As stated in the Environmental Assessment/Initial Study and discussed in Caltrans' response to comments above, neither individually nor cumulatively substantial impacts are expected as part of the proposed project. Therefore, the "answers to a and b, impacts to wildlife and cumulative impacts" have been correctly answered with "No Impacts."

Response 8: Caltrans provided ample opportunity for public input during the extended comment period from December 18, 2003 to April 5, 2004. In addition, as requested, Caltrans held a public hearing on March 24, 2004 from 5:00 p.m. to 7:00 p.m. at the Paradise Fire Station in Bishop.

Caltrans disagrees with the assertion that an Environmental Impact Report should be done for this project. As the lead agency, Caltrans has determined that an Initial Study/Environmental Assessment is the appropriate level of document. As stated in the Environmental Assessment/Initial Study and discussed in Caltrans' response to comments above, neither individually nor cumulatively significant impacts are expected as part of the proposed project. Therefore, the preparation of an Environmental Impact Report is not warranted for the proposed project.

<?xml:namespace prefix="v" /><?xml:namespace prefix="o" />
Dear Juergen:

Having worked the Sherwin Grade for 26 years, I can relate my concerns about chain control.

1 When the storm sets in, the natural spot to set up mandatory chain control, is right at the "sand shed" turnthrough northbound. It seems everyone waits until they see the black and white before pulling to the right to chain up. Unfortunately, there's not enough chain area south of the sand shed for them. A big back up occurs and they start double, and triple parking to install their chains. The "chain apes" get mad because they are all above the sand shed. Sometimes we would let people go around the closure to install their chains, but had no way to re-check to see if they actually did put them on.
The chain-up area needs to be greatly lengthened in this location, N/B 395 south of the sand shed.
It's not going to be easy because of the sharp dropoff on the east shoulder. This would take lots of fill.
The reason we set up at the sand shed turn through, is because during R-1 conditions we send the motorists back down the hill if they can't show their chains. It's kind of a screening process, and Caltrans keeps the turn through cleared for their own use.

2 My other concern is the fact that the northbound 395 lanes have no shoulder for disabled vehicles to get off the roadway in case of emergency. In the summer, we have numerous overheated vehicles stalled on the "Grade" during the day. It would sure be a great safety improvement to add a shoulder to the northbound lanes all the way up the grade.

I'm sure these concerns probably have already been incorporated into your proposal, but maybe I have been able to add some meat to your reasoning in case of opposition.

Thanks for your time.

Jim Cameron, Retired
CHP Bishop Area
760-873-7003

Response 1: The proposed project would expand chain-up areas.

Response 2: During Phase I of this project, Caltrans proposes to add shoulders on the northbound lanes to address the concern stated.

Dear sirs:

Please do not alter the Big Pumice road cut immediately north of the Sherwin Summit on highway 395. If needed, some of the loose rocks and debris that has accumulated at the base of the cut could be removed, but please don't alter the slope, or lay it back or reduce the slope of the road cut.

1

The rock materials exposed in the cut form an important set of examples for telling the geologic story of the region. Literally hundreds of university students have been and are exposed to valuable learning experiences by guided observations using this road cut. The exposure contains evidence for two stages of glaciation with the intervening multiple precursor volcanic eruptions and the final catastrophic eruption of the Bishop Tuff. The 710,000 years old Bishop Tuff eruption was one of the largest ever experienced in North America, or the world. The current road cut contains the best, and only well-exposed example of the precursor eruptions.

2

Rather than disturbing the existing road cut, a far better idea would be to pave the turnout on the southwest side of the highway, and install some type of explanatory plaque so that even more visitors could come to an understanding of the unique geologic history of this road cut.

Nearly every Geology Department in the state of California and our neighboring states uses this road cut at one time or another in the education of geologists and other earth scientists. I would estimate that at least 25 or more colleges and universities visit the site each year. Please help us save this valuable piece of our geologic landscape.

If you have any questions or if I can be of any help in meeting with you to explain further the value of saving this site, please call me immediately, and I will furnish more detailed materials regarding the significance and value of protecting the site.

Sincerely,
Robert D. Merrill

Response 1: Caltrans agrees that a steeper cut face would be better for showing the stratigraphic contact. Caltrans recognizes the importance of the Big Pumice Cut to the earth sciences community and would try to achieve a balance between minimizing rock fall onto the road surface and preserving visibility of the cut. The final slope of the cut face has not been determined and would be evaluated based on that objective, as well as slope stability analysis and constructability criteria.

Response 2: Retaining and developing the existing turnout is a desirable alternative and would be considered, with appropriate engineered restrictions to prohibit foot traffic across the road or on the cut face.

@aol.co
m

To:Mike_Donahue@dot.ca.gov
cc:
01/19/04 12:22 PM
Subject:Changes to #395 North of Bishop

Dear Mr. Donahue,

I am writing to express concern about the projects that are proposed on #395 north of Bishop near Tom's Place. The impacts of the proposed projects which include cut and fill, moving utilities, road widening justify a more extensive environmental study. The work described could have significant impacts on the Rock Creek riparian area and archeological sites. I would like to suggest that a public hearing be held and an Environmental Impact Report be prepared before the work begins.

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2
3

Thank you for this opportunity to comment.

Sincerely,

Sherryl Taylor
P.O. Box 1638
Mammoth Lakes, CA 93546

Response 1: Any resource in the project study area has been thoroughly studied as part of this project and summarized in the published Environmental Assessment/Initial Study. Analysis showed that impacts to any resource in the area are less than significant with mitigation. Therefore, no additional or more extensive studies are justified for this project.

Response 2: Impacts to riparian vegetation in the area of Rock Creek would be temporary during the replacement of the culvert. Therefore, no permanent significant impacts to riparian areas are expected to occur as a result of this project. This would be accomplished through the contractors' strict adherence to Caltrans Best Management Practices and all other conditions of any other permits required for the project.

Two archaeological sites would be adversely affected as a result of this project. Each site is important chiefly because of what can be learned from the data it contains. Mitigation would include Phase III data recovery excavation and the preparation of a technical report. Adverse effects to the two sites would be mitigated under the terms of the Memorandum of Agreement negotiated between the Federal Highway Administration and the State Historic Preservation Officer. Therefore, no significant impacts to archaeological sites are expected to occur as a result of this project. Please see section 3.6 of the Environmental Assessment/Initial Study for a more detailed discussion.

Response 3: Caltrans provided ample opportunity for public input during the extended comment period from December 18, 2003 to April 5, 2004. In addition, as requested, Caltrans held a public hearing on March 24, 2004 from 5:00 p.m. to 7:00 p.m. at the Paradise Fire Station in Bishop.

Caltrans disagrees with the assessment that an Initial Study with a Negative Declaration for this project is not the appropriate level of document. As stated in the Environmental Assessment/Initial Study and discussed in Caltrans' response to comments above, neither individually nor cumulatively significant impacts are expected as part of the proposed project. Therefore, the preparation of an Environmental Impact Report is not warranted for the proposed project.

mary pipersky
<mpipersky@QNET.COM>
To:mike_donahue@dot.ca.gov
01/20/04 05:57 PM cc:
Subject:Sherwin Summit Rehab Project

Hello Mr. Donahue; I represent District Two on the Mono County Board of Supervisors. The Sherwin Summit Rehab Project is in my district. Thank you for the opportunity to respond to the Environmental Assessment/Initial Study. I have concerns about some aspects of the project including the extensive cut and fill required, possible archeological sites that might need to be inventoried, effects on wildlife and safety issues that were not addressed regarding the new frontage road from Lower Rock Creek to Tom's Place. I also believe that the new frontage road that will result in traffic merging onto HWY 395 at Tom's Place should be discussed with our Public Works department.

1

2

I also very respectfully request a Public Meeting/Hearing on the project shortly after the January 30th deadline for comments.

Thank you.

Sincerely,
Mary Pipersky

Response 1: The proposed project, including the frontage road, was discussed on October 17, 2001 with Rich Boardman from the Local Transportation Commission. Boardman is also the Director of Public Works for Mono County. In addition, meetings with Mono County where held in March 1994 addressing the frontage road and with Mary Pipersky at Regional Planning Advisory meetings for different communities on the following dates: February 13, 2002, February 27, 2002, and April 29, 2003.

Response 2: Caltrans provided ample opportunity for public input during the extended comment period from December 18, 2003 to April 5, 2004. In addition, as requested, Caltrans held a public hearing on March 24, 2004 from 5:00 p.m. to 7:00 p.m. at the Paradise Fire Station in Bishop.

Hello,

I would like to add my comments to the proposal to lay-back the famous Big Pumice Cut road-cut. Every geology student in our many field classes at CSU Sacramento has benefited from the superb geologic exposures at this locality. Indeed, this is one of the first field localities I traveled to in my student days at UCLA. Please save this unique geologic site. It is a valuable resource to geology students everywhere.

Thank You,

Brian Hausback

Brian Hausback
Geology Department
California State University, Sacramento
6000 J Street
Sacramento, CA 95819-6043

Tel: (916) 278-6521
FAX: (916) 278-4650
Internet mail: hausback@csus.edu

Response: Comment noted. Caltrans is aware of the significance of the Big Pumice Cut to the understanding of Quaternary geology of California and will seek to preserve the visibility of the cut face. Caltrans would try to achieve a balance between minimizing rock fall onto the road surface and preserving visibility of the cut.

lori constan
<lori@sierramountaincenter.co m>
To:mike_donahue@dot.ca.gov
cc:
01/26/04 10:04 PM
Subject:Lower Rock Creek Rd.

Hi Mike.
We wanted to express a few of our concerns regarding the extension of the road to Tom's Place from Lower Rock Creek Road (LRCR). As residents of Swall Meadows we access the north exit of LRCR at least four times a week. With the improvements that were made in the last several years with the turning lanes going both north and south bound on HWY 395 we find it quite simple to turn onto 395. Wether you are going north of south you have a clear view of where the vehicles are from LRCR. There have been very few times where we had to wait to turn onto 395 and that usually has taken place on Sunday late afternoon during ski season. We have never cut anyone off (at least to the best of our knowledge) to attempt a quick turn onto 395.
We both have been residents of Sunny Slopes where turning onto 395 has been challenging. Without a clear view (like the one you get when turning off the north exit of LRCR) we have experienced many close calls. I am sure many of the residents coming out of Tom's Place or Sunny Slopes have repeated close calls because it is impossible to get a clear view as to where the vehicles are. When exiting that intersection (coming out of the east or west) and turning onto 395 it is quite difficult to gage where all the cars are and at what speed they are going. If you increase the traffic at Tom's Place we believe that you will jeopardize the safety of all drivers, at all times. Unless the plan is to stop traffic on the highway to let the cross traffic go, then we do not foresee this as being a safe, economical solution.
With all the budget cuts that our state in particular is feeling we are sure there is a more worthwhile cause to use these funds. An area of needed attention is increasing all highway lanes from two to four on Hwy 6 and 395. This is where the fatalities take place.
We appreciate your consideration,
Lori Constan and Robert Parker
Swall Meadows

Response: The Rock Creek Road (Tom's Place) intersection has standard sight distance, which can be maintained as long as the brush is not allowed to encroach.

The proposed frontage road is desirable from a local traffic circulation standpoint. Traffic between Swall Meadows and Tom's Place would not be forced to get on and off of the expressway anymore, therefore reducing conflict points for traffic. In addition, the frontage road would provide a continuous route for bicycles and other slower vehicles between Swall Meadows and Tom's Place. Currently, Caltrans is not aware of any congestion issues in the area. The local residents may not currently be having problems with the Lower Rock Creek intersection, but the intersection does not meet current design standards and provides considerable potential for conflicts. Caltrans is aware of only one broadside collision at the Rock Creek Road (Tom's Place) intersection in the last 10 years. Caltrans has received complaints about sight distance, investigated and found that the problem was brush encroaching on the sight line. Maintenance of vegetation would ensure proper visibility in the future.

Dear Sir:

It has come to my attention that CalTrans proposes to layback the roadcut along Highway 395 near Rock Creek Gorge known affectionately to geologists as "Big Pumice Cut". I hope that you will incorporate into your plans the knowledge that this roadcut is an important teaching resources for the many geologic field trips taken by college classes from all over the country. Personally, I don't mind if the slope angle is lessened somewhat so that not as much debris falls to the roadway. What is most important to me is that periodically (say every 5 years) the slope is regraded to expose fresh material and remove vegetation, so that the geologic relationships in the Bishop Tuff, one of the largest eruptions in the world in the last million years, are well-exposed.

Sincerely,
Gail Mahood
Professor of Geology
(and instructor of 3 courses that visit Big Pumice Cut)
--

_____

Gail A. Mahood
Professor
Dept. of Geological and Environmental Sciences
Stanford University
Stanford CA 94305-2115, USA
650-723-1429

Response: Comment noted. Due to funding issues, it is unlikely this option would be considered in the list of alternatives. However, Caltrans recognizes the importance of the Big Pumice Cut to the earth sciences community and would try to achieve a balance between minimizing rock fall onto the road surface and preserving visibility of the cut. The final slope of the cut face has not been determined and would be evaluated based on that objective, as well as slope stability analysis and constructability criteria.

Alvin L. Franks, Ph.D.<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

Engineering/Environmental Geology Consultant
<?xml:namespace prefix = st1 ns = "urn:schemas-microsoft-com:office:smarttags" />44 Lakeshore Circle
Sacramento, CA 95831-1507

Phone (916) 422-2841
Fax (916) 422-1425
e-mail: alfranks@prodigy.net

Dear Mr. Vessermann:

Your proposal to lay back the Big Pumice Cut at Sherwin Grade on US 395, if completed would destroy or greatly impair the usefulness of the cut as a teaching tool. This cut is a regular stop for most classes and geology field trips in this part of California.

1

2

It is noted in the EAIS report, that one of the objectives for modification and reduction of the slope of the cut was to reduce the amount of erosion. It was also noted that Caltrans did not have a Engineering Geologist involved in the process. If the cut is made shallower, the material will still erode from the cut, but will collect on the flattened surface and hide the geology but will still reach the ditch line.

It is suggested that Caltrans have one or more of your Engineering Geologists take a look at the cut and provide you with a corrective plan that will preserve the cut as a teaching tool and at the same time assist in the reduction of maintained costs.

A.L. Franks, Ph.D.

Response 1: Engineering geologists were consulted on this project, but were omitted from the Environmental Assessment/Initial Study. This has been corrected (see the List of Preparers in Chapter 5).

Response 2: Caltrans agrees that a steeper cut face would be better for showing the stratigraphic contact. Caltrans recognizes the importance of the Big Pumice Cut to the earth sciences community, and would try to achieve a balance between minimizing rock fall onto the road surface and preserving visibility of the cut. The final slope of the cut face has not been determined and would be evaluated based on that objective, as well as slope stability analysis and constructability criteria.

I am writing to urge you not to "lay back" the famous Big Pumice Cut which exposes the Bishop Tuff overlying Sherwin Till, near the crest of the Sherwin Grade between Bishop and Long Valley Caldera as part of a highway improvement project along a 10-mile stretch of US 395. Geoscience educators from all over California know the Big Pumice Cut and it is almost always a stop on geology field trips to the Eastern Sierra.

This is most important and I thank you in advance.

Yours truly, Kenneth H. Sayers

_____

*** Ken Sayers & Nette Kobak ***

Alameda, CA 94501 37o 46' N, 122o 15' W

Response: Caltrans recognizes the importance of the Big Pumice Cut to the earth sciences community and would try to achieve a balance between minimizing rock fall onto the road surface and preserving visibility of the cut.

Hi Caltrans Guys:

Please save our Bishop Tuff/Sherwin Till/395 road cut! This is one of our National Treasures. Do we have to get a bill passed to make it a National Monument? I would think it would be a feather in Caltrans' hat to be one of the first road departments to be aware of the significance of features like this.

Glenn

Glenn Borchardt

Soil Tectonics

P.O. Box 5335

Berkeley, CA 94705-0335

Voice: 510-654-1619

Fax: 510-654-2935 or 530-655-0018 (voice message or fax)

< mailto:gborchardt@usa.net>
< http://www.soiltectonics.com>

Response: Caltrans is aware of the significance of the Big Pumice Cut to the understanding of Quaternary geology of California and would seek to preserve the visibility of the cut face.

"Brian Biehl"
<BBiehl@chp.ca.gov>
01/28/2004 12:17 PM

To:"Michael O'Sullivan" <MO'Sullivan@chp.ca.gov>, <Brad.Mettam@Dot.Ca.Gov>
cc:
Subject:Sherwin Summit Rehabilitation Project

Brad

Per our discussion our officers are excited about the proposed improvements to the Sherwin Grade. The only issue that came up was the importance of having a paved Median cross-over north of the Sand Shed. This would allow vehicles to be turned around and returned to town when their not able to comply with the chain requirements.

Thank's
Brian

Response: As part of the proposed project, Caltrans is planning to construct a paved crossover about 2.5 kilometers (1.5 miles) north of the existing sand shed. The improved crossover would accommodate all vehicles.

Karen Ferrell-Ingram
<ingram@telis.org> To:Mike_Donahue@dot.ca.gov. cc:
01/29/04 10:44 AM Subject:Sherwin Summit Rehabilitation Project

Dear Mr. Donahue, I am writing to express my concerns regarding the Sherwin Summit Rehabilitation Project in Mono County. I believe this is a major project and that the public should be more informed and involved in the decision-making process. I request a public meeting to explain the project and further environmental review of potential impacts.

1

I believe that a public scoping period is called for before the decision is made to do only a negative declaration. Your document describes many potentially significant impacts:
-major cut and fill involved with moving the highway,
-destruction of 215 acres of natural habitat in the middle of a critical deer migration corridor

2

-construction in riparian areas

3

-manipulation of Rock Creek
-construction of a new road
-destruction of many archeological sites

4

-change in traffic congestion at Tom's Place intersection

5

Many local residents drive, hike and recreate in these areas daily and would like to have the opportunity to understand the scope and consequences of this major project before it is approved. Please schedule a public meeting at a time and location convenient to local residents. I also request that more environmental review be conducted before this project proceeds. Thank you for your attention to my concerns.
Sincerely,
--
Karen Ferrell-Ingram
140 Willow Road
Swall Meadows
Bishop, CA 93514
(760) 387-2913
fax (760) 387-2961

Response 1: Caltrans provided ample opportunity for public input during the extended comment period from December 18, 2003 to April 5, 2004. In addition, as requested, Caltrans held a public hearing on March 24, 2004 from 5:00 p.m. to 7:00 p.m. at the Paradise Fire Station in Bishop.

Any resource in the project study area has been thoroughly studied as part of this project and summarized in the published Environmental Assessment/Initial Study. Analyses showed that impacts to any resource in the area are less than significant with mitigation. Therefore, no additional or more extensive studies are justified for this project.

Response 2: Even though the Environmental Assessment/Initial Study identified approximately 87 hectares (215 acres) of previously undisturbed ground to be permanently disturbed, this number has been reduced to approximately 60.7 hectares (150 acres). Conversations between Caltrans and California Department of Fish and Game biologists did not identify any critical migration corridor (i.e., concentration) across U.S. Highway 395 within the limits of the project. The fact that no localized crossing areas or migration corridors exist within the project limits is further supported by the low number of accidents involving deer within the limits of the project area. However, Caltrans does recognize that incidental deer crossings occur within the proposed project area.

Response 3: There are no plans to modify or "manipulate" Rock Creek as part of this project. The only temporary impacts would occur during the replacement of the culvert. Caltrans Best Management Practices would ensure that temporary impacts would be kept to a minimum. Remaining impacts would be compensated for by replacement planting of native riparian vegetation.

Response 4: No traffic congestion is anticipated at the intersection at Tom's Place as a result of the proposed project. Traffic volumes on Rock Creek Road/Crowley Lake Drive are minor and should not cause any negative impacts to the intersection.

Response 5: As stated above, a public hearing was held March 24, 2004 at the Paradise Fire Station, giving local residents the opportunity to request information and ask questions about the project.

Dear Mr Vespermann
Word has reached me here regarding the news that Caltrans is proposing to undertake improvements to US395 that include alterations to the location known as 'Big Pumice Cut', at the top of the Sherwin grade, east of Toms Place. I am a geologist who has worked a lot (32 weeks of fieldwork between 1990 and1999) in the Long Valley area, in collaboration with Dr Wes Hildreth of the U.S. Geological Survey. Our work has been on the Bishop Tuff (an ash-flow sheet erupted from Long Valley about 760,000 years ago) which is one of the two geological units exposed at Big Pumice Cut. I thus know the area in general and locality in particular very well.
In my opinion, Big Pumice Cut is one of the most valuable single localities in the eastern Sierra for illustrating the geological history of the Bishop Tuff eruption, and its relationship to the glacial history of the Sierra Nevada. I have watched the deterioration of the cut over the years with concern, and understand why some remedial work might be needed to reduce the amount of debris going on to the highway and to improve the highway layout in the vicinity of the junction with Old Sherwin Grade.
However, the educational value of this exposure, in my opinion, is equally important, and I would urge Caltrans to consult with the geological community such that the remedial works undertaken not only add to highway safety but enhance the value of the section for educational and scientific processes. Can I add my name to the concerns that have been expressed that the works proposed may lead to this classic locality being effectively destroyed as a scientific and educational resource? I would like to think that all parties' needs can be accommodated if proper planning is undertaken prior to the works commencing.

Thank you for your attention.

Yours sincerely

Dr Colin J.N. Wilson FRSNZ
Principal Scientist
Institute of Geological & Nuclear Sciences
P.O. Box 30368
Lower Hutt
New Zealand
c.wilson@gns.cri.nz

Response: Caltrans is aware of the significance of the Big Pumice Cut to the understanding of Quaternary geology in California and would seek to preserve the visibility of the cut face. Engineering geologists were consulted on this project, but were omitted from the Environmental Assessment/Initial Study. This has been corrected (see List of Preparers in Chapter 5). Final slope of the cut face would need to be evaluated based on slope stability analysis and constructability criteria. Caltrans would try to achieve a balance between minimizing rock fall onto the road surface and preserving visibility of the cut.

Dear Mr. Vespermann,

Word reached me today regarding the plan to renew and the reshape the roadcut termed the "Big Pumice Cut" near Bishop California, and I would urge that CalTrans consult further with the geological community before proceeding.

My familarity with the cut results from repeated trips while I was studying for my PhD at the UC Santa Barbara, and from later work that I have undertaken in repeated from 1995 onward in the Mono Lake area. As mentioned by other correspondents (I was copied letters by Colin Wilson and Forrest Hopson), that roadcut is widely used for training of geologists, not only by California schools but by universities throughout the country and in some cases overseas.

If the cutting face is greatly reduced in angle, it will both greatly impede a viewer's ability to pick out the critical geological relationships, and will soon become covered with loose debris from weathering of the cut material. It would be a great shame for a unique, extremely informative, and widely visited geological site such as the Big Pumice Cut to be made over in a way that destroys these values if there are any practical approaches that could conserve, or even improve, it at the same time that the critical road quality concerns are addressed. In short, the best solution would be if CalTrans could work toward an engineering solution that improved road safety and usability while renewing and retaining the present steepness of the roadcut's face.

with best regards,

James White

James White, Senior Lecturer
Sedimentology & Volcanology
Geology Department, Leith Street, PO Box 56
University of Otago, Dunedin, NZ 9015
ph: +64 3 479-9009; fax +64 3 479-7527
http://www.otago.ac.nz/geology/jdlw.htm

Response: Caltrans agrees that a steeper cut face would be better for showing the stratigraphic contact. Caltrans recognizes the importance of the Big Pumice Cut to the earth sciences community and would try to achieve a balance between minimizing rock fall onto the road surface and preserving visibility of the cut. The final slope of the cut face has not been determined and would be evaluated based on that objective, as well as slope stability analysis and constructability criteria.

Dear Mr. Vespermann,

I wrote you a letter about two weeks ago urging Caltrans to not lay back the Big Pumice Cut. Attached is that letter. The main reason why I'm contacting you again is because Colin Wilson's letter below makes extremely good sense. Proper planning is absolutely essential if Caltrans is to meet its goals with as little negative impact on the Big Pumice Cut as possible.

1 A couple of suggestions: 1) consider placing a rockwall fence or low debris wall along the base of the Big Pumice Cut. I should think that this would much cheaper than laying back the road cut and would provide access to the

2 exposure. 2) Because the Big Pumice Cut is such a valuable educational resource, I suggest making improvements to the turnout across the highway from the road cut and placing an interpretive plaque that explains the road cut's geologic significance.

Don't hesitate to contact me if you have any questions or comments.

Sincerely,

Forrest Hopson

>X-Filtered-By: GBIS
>To: juergen_vespermann@dot.ca.gov
>Cc: hildreth@usgs.gov, Ghopsonfho@mail.greatbasin.net, Hausback@csus.edu
>Subject: US395 improvements and Big Pumice Cut
>X-Mailer: Lotus Notes Release 5.0.11 July 24, 2002
>From: "Colin Wilson" <C.Wilson@gns.cri.nz>
>Date: Fri, 30 Jan 2004 10:39:10 +1300
>X-MIMETrack: Serialize by Router on grfm1.gns.cri.nz/GNS(Release
>5.0.11 |July 24, 2002) at
> 30/01/2004 10:39:11 AM,
> Serialize complete at 30/01/2004 10:39:11 AM
>
>Dear Mr Vespermann
>

>Word has reached me here regarding the news that Caltrans is proposing to>undertake improvements to US395 that include alterations to the location>known as 'Big Pumice Cut', at the top of the Sherwin grade, east of Toms
>Place. I am a geologist who has worked a lot (32 weeks of fieldwork
>between 1990 and1999) in the Long Valley area, in collaboration with Dr>Wes Hildreth of the U.S. Geological Survey. Our work has been on the
>Bishop Tuff (an ash-flow sheet erupted from Long Valley about 760,000
>years ago) which is one of the two geological units exposed at Big Pumice
>Cut. I thus know the area in general and locality in particular very
>well.
>
>In my opinion, Big Pumice Cut is one of the most valuable single
>localities in the eastern Sierra for illustrating the geological history
>of the Bishop Tuff eruption, and its relationship to the glacial history
>of the Sierra Nevada. I have watched the deterioration of the cut over the
>years with concern, and understand why some remedial work might be needed
>to reduce the amount of debris going on to the highway and to improve the
>highway layout in the vicinity of the junction with Old Sherwin Grade.
>However, the educational value of this exposure, in my opinion, is equally
>important, and I would urge Caltrans to consult with the geological
>community such that the remedial works undertaken not only add to highway
>safety but enhance the value of the section for educational and scientific
>processes. Can I add my name to the concerns that have been expressed that
>the works proposed may lead to this classic locality being effectively
>destroyed as a scientific and educational resource? I would like to think
>that all parties' needs can be accommodated if proper planning is
>undertaken prior to the works commencing.
>
>Thank you for your attention.
>
>Yours sincerely
>
>Dr Colin J.N. Wilson FRSNZ
>Principal Scientist
>Institute of Geological & Nuclear Sciences
>P.O. Box 30368
>Lower Hutt

>New Zealand
>
>c.wilson@gns.cri.nz

R. FORREST HOPSON, M.S.
Owner, Geologist
Geological Information Services
2930 Salem Place, #608
Reno, Nevada 89509
Ph. (775) 825-6246
mailto:fhopson@geoinfoservices.net
http://www.geoinfoservices.net

Response 1: It is unlikely this option would be considered in Caltrans' list of alternatives. A wall at this location would complicate debris cleanout and snow removal. A shoulder catchment is the preferred acceptable alternative and would be evaluated in the final design.

Response 2: Retaining and developing the existing turnout is a desirable alternative and would be considered, with appropriate engineered restrictions to prohibit foot traffic across the road or on the cut face.

Hello Juergen,
Hopefully this correspondence does not find you too late for your acceptance of comments regarding the HWY 395, Big Pumice Cut re-grading project.

I too wish to join others opposed to any re-constructive work that would obscure this rare exposure of unique California geology that empirically dates the Bishop Tuff relative to the Sherwin (Glacial) Till.

However, in support of Caltrans' on-going commitment to highway safety, I would welcome, and like to see, ideas to both reduce erosional debris, and potentially even enhance the exposure from a geologic perspective.

Thank you for your attention,

Respectfully,

R. David Smith, R.G.
Project Manager/Geologist
HydroGeoLogic, Inc.
4600 Northgate Blvd. Suite 207
Sacramento, CA 95834
ph: (916) 614-8770
fax: (916) 614-8775
e-mail: dsmith@hgl.com
Co. Web Page: www.hgl.com

Thanks to Forrest and Patrick for getting this message to me. Big Pumice Cut on Highway 395 is in danger of being destroyed (see info below). Please take the time to send Caltrans a word of support to keep this classic geologic site for future students!!!

X-Sender: Ghopsonfho@mail.greatbasin.net
X-Mailer: QUALCOMM Windows Eudora Version 5.2.1
Date: Sun, 11 Jan 2004 13:38:56 -0800
To: "Allen F. Glazner" , Robert Gray ,
Robert Stull
From: "R. Forrest Hopson"
Subject: Big Pumice Cut threatened

Mime-Version: 1.0
Content-Type: multipart/mixed; boundary="=_F7D6B83C.61006F5E"

Hello all,

It came to my intention recently that Caltrans wants to "lay back" the famous *Big Pumice Cut* which exposes the Bishop Tuff overlying Sherwin Till near the crest of the Sherwin Grade between Bishop and Long Valley Caldera as part of a highway improvement project along a 10-mile stretch of US 395. Geoscience educators from all over California know the *Big Pumice Cut* and it is almost always a stop on geology field trips to the Eastern Sierra. For those of you who have sketchy memories, a photograph is attached (scroll down).

One of the objectives of laying back the road cut is to reduce the amount of erosion, but the EAIS report wasn't specific on how much engineers want to lay it back. While I'm sure that laying back the road cut will reduce the amount of rubble that collects on the roadway, I'm skeptical that shallower angled-cut face is the answer simply because eroded material will collect on the new face and obscure the geology. Also, the more shallow road cut shallow angle the more difficult it would be to see the geology and may even increase the risk for plant growth (I would think), in my opinion.

Caltrans is accepting comments until January 30, 2004. Submit written comments to:
Caltrans, Environmental Planning
Attn: Juergen Vespermann
2015 E. Shields Avenue, Suite 100
Fresno, CA 93726

or by e-mail to juergen_vespermann@dot.ca.gov

The report can be found on-line at
http://www.dot.ca.gov/dist9/projmgt/Mono_projects/26900/26900.html
http://www.dot.ca.gov/dist9/projmgt/Mono_projects/26900/_Report -- click on
Sherwin Summit EAIS_..>

Note that the report file is huge and may not be accepted by many home dial-up internet connections. Alternatively you can write for a copy of the report.

One final comment, I found it interesting that not one person on the list of preparers was a geologist or engineering geologists. As I recall they were engineers, environmental planners and report editors.

Hope you this e-mail useful. Apologies if not, but was trying to get it out to as many folks who might have an interest in this project.

Cheers, Forrest

Response: Caltrans is aware of the significance of the Big Pumice Cut to the understanding of Quaternary geology in California and would seek to preserve the visibility of the cut face. The Department will endeavor to achieve a balance between minimizing rock fall onto the road surface and preserving visibility of the cut.

Comments received at the Public Hearing on March 24, 2004

Sherwin Summit Rehabilitation Project

Comment Card

NAME: HAP HAZARD

ADDRESS: Box 554 CITY: Mammoth ZIP: 93546

REPRESENTING: Mono County

Do you wish to be added to the project mailing list? ☑ YES ☐ NO

Please drop comments in the Comment Box or
Mail to: CALTRANS, District 6
Department of Transportation
Attention: Juergen Vespermann
Environmental Planner
2015 E. Shields, Suite 100
Fresno, CA 93726

I would like the following comments filed in the record (please print):

THE PROJECT BEGINS JUST NORTH OF THE GORGE INTERSECTION. THE NORTHBOUND LANE OF THIS INTERSECTION SHOULD HAVE A LONGER ACCEL LANE. IT IS TO SHORT TO BLEND INTO THE #1 LANE WHILE ~~[illegible]~~ GOING UPHILL.

How Did You Hear About This Meeting? ☐ newspaper ☐ poster ☒ someone told me about it other:

We would appreciate receiving comments by April 5, 2004.

Response: Gorge Road is south (outside) of the current project limits, and the project cannot be extended to include this intersection at this point. The traffic department will take this suggestion into consideration and, if warranted, could potentially include it into a separate project.

Sherwin Summit Rehabilitation Project

US HWY 395 US HWY 395

Comment Card

NAME: Jim Rudolph

ADDRESS: 136 EAGLE VISTA PARADISE ESTATES CITY: Bishop ZIP: 93514

REPRESENTING:

Do you wish to be added to the project mailing list? ☑ YES ☐ NO

Please drop comments in the Comment Box or

Mail to: CALTRANS, District 6
Department of Transportation
Attention: Juergen Vespermann
Environmental Planner
2015 E. Shields, Suite 100
Fresno, CA 93726

I would like the following comments filed in the record (please print): PLEASE ADD ANALYSIS & UP GRADE THE Rock creek intersection at tom's place. check the sight distance out of Sunny slopes going north bound And sight distance for lefts from rock creek to 395

How Did You Hear About This Meeting? ☑ newspaper ☐ poster ☐ someone told me about it other:

We would appreciate receiving comments by April 5, 2004.

Response: The sight distances at the mentioned intersection were last checked during the summer of 2003. During that analysis, it was determined that standard sight distances are being provided in all directions at the existing intersection.

ORIGINAL

SHERWIN SUMMIT REHABILITATION PROJECT

PUBLIC COMMENTS

-oOo-

Wednesday, March 24, 2004

Paradise Estates, California

Jeri Beth Rich
Certified Shorthand Reporter, C-4670
Post Office Box 1481 Bishop, CA 93515-1481
(760) 872-4442

PARADISE ESTATES, CALIFORNIA; WEDNESDAY, MARCH 24, 2004

-oOo-

PUBLIC COMMENT SESSION

MARY PIPERSKY: Should I start?

Okay. I'm Mary Pipersky with the Mono County Board of Supervisors and I wanted to comment about Phase II, some concerns that I have and that members of the community have and people that use the highway from Sunny Slopes, Tom's Place, and the present entry to the highway from Swall Meadows. Let's see. Just give me a second here.

The present entry to the highway has an acceleration lane and a left-turn pocket lane. When the change is made for people to enter the highway from Tom's Place, I'd like to see an acceleration lane for people turning northbound on the highway from Sunny Slopes and also for people turning north from Tom's Place and for people turning south on Highway 395 also from Tom's Place.

1

And then I have some comments regarding the Phase II again that are not safety related but possibly environmentally related and that would be that there

2

apparently is 215 acres of Forest Service land which is public land that will be disturbed by the project, enough so that I believe -- I would like to ask for an Environmental Impact Report. There's deer habitat involved, there's watershed, and possibly erosion problems on the new frontage road.

That's it.

STEVE LIPSHIE: I'm here just on my own behalf, not on behalf of L.A. County, just to show you who my employer is.

But I wrote a letter to -- let's see -- Mike Donahue, which I expressed my concerns about the plan to modify the Big Pumice Cut to lay it back to a gentler slope angle. And my concern, as I expressed in the letter, was that a lower slope angle would allow the entire slope to become vegetated and eventually hide the geology with plants thereby removing its usefulness for teaching purposes.

And -- but one thing I didn't say in the letter was what I thought they ought to be doing with the slope and my feeling is that it should be cut to a relatively steep slope angle and that that would minimize raveling, r-a-v-e-l -- I don't know if it's double-l, double-l-i-n-g -- and I think with a steeper slope, something on the order of one -- let's say

3

3

one -- got to think about this first -- one horizontal to four vertical or even one horizontal to two vertical, that they would have less raveling than they have with the existing slope. I'm told that -- I was told this evening that right now Cal Trans is thinking about making the slope two horizontal to one vertical, which is a somewhat gentler slope than the existing slope and my concern is that that would eventually lead to that vegetation problem that I mentioned.

So I think that's all I wanted to say to supplement the letter that I sent previously.

Thank you.

(There were no further public comments.)

REPORTER'S CERTIFICATE

I, JERI BETH RICH, CSR NO. 4670, Certified Shorthand Reporter, certify:

That the foregoing proceedings were taken before me at the time and place therein set forth;

That the oral comments given to me made at the time of the public comment session were recorded stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct transcript of my shorthand notes so taken.

I further certify that I am not a relative or employee of any of the parties, nor financially interested in the action.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this 27th day of March, 2004.

Jeri Rich

JERI BETH RICH, CSR NO. 4670

5

Response 1: Comment noted. Intersection improvements will be considered during the design of the project, and the suggested improvements would be evaluated at that time.

Response 2: Caltrans disagrees with the assessment that an Initial Study with a Negative Declaration for this project is not the appropriate level of documentation under the California Environmental Quality Act. As stated in the Environmental Assessment/Initial Study and discussed earlier, neither individually nor cumulatively significant impacts are expected as part of the proposed project. The aforementioned Bitterbrush vegetation is neither habitat for endangered species under the California Environmental Quality Act nor is it an endangered habitat type itself. Therefore, no significant impacts under the California Environmental Quality Act are expected as a result of this project, and the preparation of an Environmental Impact Report is not warranted for the proposed project.

Response 3: Caltrans agrees that a steeper cut face would be better for showing the stratigraphic contact. Caltrans recognizes the importance of the Big Pumice Cut to the earth sciences community and would try to achieve a balance between minimizing rock fall onto the road surface and preserving visibility of the cut. The final slope of the cut face has not been determined and would be evaluated based on that objective, as well as slope stability analysis and constructability criteria.

The rate of re-vegetation cannot be conclusively determined at this time. Since initial construction, the Sherwin Till at the cut face has shown significant re-vegetation. However, the Bishop Tuff is still denuded, which appears related to continued erosion of the tuff at the cut face. Erosion of the Bishop Tuff is still anticipated at the shallower slope, but at a reduced (and as yet unquantified) rate. Whether this reduced rate will support re-vegetation cannot be stated at this time.

Appendix K Memorandum of Agreement Between FHWA and SHPO

MEMORANDUM OF AGREEMENT

BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION AND THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER REGARDING THE SHERWIN SUMMIT REHABILITATION PROJECT ON U.S. HIGHWAY 395 BETWEEN KILOMETER POST R207.28 IN INYO COUNTY AND KILOMETER POST R16.58 IN MONO COUNTY, CALIFORNIA

Whereas, the Federal Highway Administration (FHWA) has determined that the Sherwin Summit Rehabilitation Project (Undertaking), which is depicted in Attachment 1 to this Memorandum of Agreement (MOA), on Highway 395 in Inyo and Mono Counties, California, will adversely affect CA-MNO-2433/H and CA-MNO-3490, may adversely affect contributing deposits of CA-MNO-3465, and may adversely affect CA-MNO-2432, -3462, -3466, -3473, -3479, -3481, -3482, -3483, -3484, -3485, -3487, -3488/H, -3489, -3491, -3493, CA-INY-5939, and P-26-3957, properties determined by consensus to be eligible for inclusion in the National Register of Historic Places (National Register) (historic properties); and

Whereas, the FHWA has consulted with the California State Historic Preservation Officer (SHPO) in accordance with 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) (NHPA), and has notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect finding, pursuant to 36 CFR § 800.6(a)(1); and

Whereas, the FHWA, in consultation with the SHPO, has thoroughly considered alternatives, has determined that adverse effects to archaeological sites CA-MNO-2433/H and CA-MNO-3490 cannot be avoided, that implementation of the treatment prescribed in stipulation I.A. of this MOA will satisfactorily take into account the Undertaking's adverse effects on these historic properties, and that it is in the public interest to take the Undertaking's effects on these sites into account through the recovery of significant information from these sites; and

Whereas, the FHWA, in consultation with the SHPO, has determined that the Undertaking's effects on archaeological site CA-MNO-3465 will be confined to those portions of the site that do not contribute to its National Register eligibility, and that any potentially adverse effects to the remaining portions of this historic property will be satisfactorily avoided by implementing and enforcing the measures set forth in stipulation I.B. of the MOA; and

Whereas, the FHWA, in consultation with the SHPO, has determined that the Undertaking may adversely affect archaeological sites CA-MNO-2432, -3462, -3466, -3473, -3479, -3481, -3482, -3483, -3484, -3485, -3487, -3488/H, -3489, -3491, -3493, CA-INY-5939, and P-26-3957, but that implementing and enforcing the measures set forth in stipulation I.C. of this MOA will satisfactorily avoid potential adverse effects of the Undertaking to these historic properties; and

Whereas, the Bureau of Land Management (BLM) has jurisdiction and control over archaeological sites CA-MNO-3490, -3491, -3493, and CA-INY-5939, and the Inyo National Forest (INF) has jurisdiction and control over archaeological sites CA-MNO-2432, -2433/H, -3462, -3465, -3466, -3473, -3479, -3481, -3482, -3483, -3484, -3485, -3487, -3488/H, -3489, and P-26-3957, and owing to such jurisdiction and control, the BLM and INF propose to issue to Caltrans Archaeological Resources Protection Act (ARPA) permits authorizing implementation of all measures prescribed by this MOA for which such permits will be required; and

Whereas, the FHWA, the BLM and the INF have agreed that the FHWA shall be the lead federal agency responsible for fulfilling all requirements of this MOA except those that pertain to the treatment of any Native American burials and cultural items discovered on federal lands during implementation of this MOA or of the Undertaking; and

Whereas, the BLM and the INF, owing to their jurisdiction and control over historic properties covered by this MOA, participated in the consultation and have been invited to concur in this MOA; and

Whereas, the California Department of Transportation (Caltrans) participated in the consultation and has been invited to concur in this MOA; and

Whereas, the FHWA has consulted with the Bishop Paiute Tribe (Tribe) regarding the proposed Undertaking and its effect on historic properties, will continue to consult with the Tribe, and will afford the Tribe, should the Tribe so desire, with the opportunity to participate in the implementation of this MOA and the Undertaking;

Now, therefore, the FHWA and the SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the Undertaking on historic properties, and further agree that these stipulations shall govern the Undertaking and all of its parts until this MOA expires or is terminated.

STIPULATIONS

The FHWA shall ensure that all of the following stipulations, except those pertaining to the treatment of any Native American burials and cultural items discovered on federal lands during implementation of this MOA or of the Undertaking, are carried out:

I. TREATMENT OF HISTORIC PROPERTIES

A. The FHWA shall ensure that the adverse effects of the Undertaking on archaeological sites CA-MNO-2433/H and CA-MNO-3490, are resolved by implementing and completing the September 2004 *Treatment Plan for the Sherwin Summit Rehabilitation Project U.S. Highway 395 in Inyo and Mono Counties, California* (Treatment Plan) that is Attachment 2 to this MOA. Data recovery is prescribed for archaeological deposits contributing to the National Register eligibility (contributing deposits) of these historic properties that lie within the Undertaking's construction Area of Direct Impact (ADI). In order to eliminate or minimize the potential to affect contributing deposits of these sites where data recovery is not prescribed, Caltrans will protect those contributing deposits by identifying them as ESAs and by enclosing the contributing deposits in temporary fencing. The ESAs shall be described in information included in the final construction plans of the Undertaking. The FHWA shall further ensure that: 1) construction activities within 50 feet of the properties shall be monitored by an archaeologist and Native American monitor; and 2) the integrity of the fenceline as installed will be monitored by the archaeologist throughout the duration of construction activities in the site vicinity.

B. The Undertaking has the potential to inadvertently and adversely affect contributing deposits of CA-MNO-3465. In order to eliminate or minimize this potential, the FHWA shall ensure that the September Treatment Plan that is Attachment 2 to this MOA is implemented and completed by Caltrans. Caltrans will protect the contributing deposits of CA-MNO-3465 by identifying them as an ESA, which shall be described in information included in the final construction plans of the Undertaking, and by enclosing the contributing deposits in temporary fencing. The FHWA shall further ensure that: 1) construction activities within 50 feet of the property shall be monitored by an archaeologist and Native American monitor; and 2) the integrity of the fenceline as installed will be monitored by the archaeologist throughout the duration of construction activities in the site vicinity.

C. The Undertaking has the potential to inadvertently and adversely affect CA-MNO-2432, -3462, -3466, -3473, -3479, -3481, -3482, -3483, -3484, -3485, -3487, -3488/H, -3489, -3491, -3493, CA-INY-5939, and P-26-3957. In order to minimize this potential, the FHWA shall ensure that the Treatment Plan that is Attachment 2 to this MOA is implemented and completed by Caltrans. Caltrans will protect these historic properties by identifying them as ESAs, which shall be described in information included in the final construction plans of the Undertaking, and by enclosing them with temporary fencing. The FHWA shall further ensure that: 1) construction activities within 50 feet of these sites shall be monitored by an archaeologist and Native American monitor; and 2) the integrity of the fencelines as installed will be monitored by the archaeologist throughout the duration of construction activities in the sites vicinities.

D. The FHWA will not authorize any Undertaking-related activity that it determines could result in an adverse effect to CA-MNO-2433/H or CA-MNO-3490 to proceed until the fieldwork portion of the requirements set forth in paragraph A. of this stipulation have been completed.

II. NATIVE AMERICAN CONSULTATION

A. The FHWA has consulted with the Tribe regarding the proposed Undertaking and its effects on historic properties, will continue to consult with the Tribe, and will afford the Tribe, should the Tribe so desire, the opportunity to participate in the implementation of the MOA and Undertaking. Such participation may include, but is not necessarily limited to, monitoring during archaeological data recovery excavations and construction monitoring prescribed in stipulation I.A-C. Should the Tribe agree to participate as herein set forth, the FHWA will make an effort to reach a mutually acceptable agreement with the Tribe regarding the manner in which the Tribe will participate in the implementation of this MOA and the Undertaking, and regarding any time frames or other matters that may govern the nature, scope, and frequency of such participation.

B. The BLM and the INF shall consult with the Tribe in accordance with the requirements of §§ 3(c) and 3(d) of the Native American Graves Protection and Repatriation Act of 1990 (25 USC 3001) (NAGPRA) and implementing regulations found at 43 CFR Part 10 to address the treatment of Native American burials and cultural items that may be discovered on federal land during implementation of this MOA and of the Undertaking.

III. TREATMENT OF HUMAN REMAINS OF NATIVE AMERICAN ORIGIN

A. All parties to this MOA agree that Native American burials and cultural items discovered on federal land during implementation of the terms of this MOA and of the Undertaking will be treated under the provisions of an ARPA permit(s) by the concurring federal agency that has jurisdiction over the discovery in accordance with the requirements of NAGPRA and implementing regulations found at 43 CFR Part 10.

B. The FHWA and Caltrans agree that Native American burials and related items discovered on non-federal land during implementation of the terms of the MOA and of the Undertaking will be treated in accordance with California State Health and Safety Code Sections 7050.5(b) and 7050.5(c). If the county coroner/medical examiner determines that the human remains are, or may be of Native American origin, then the discovery shall be treated in accordance with the provisions of § 5097.98(a)-(d) of the California Public Resources Code. The FHWA and Caltrans will ensure that, to the extent permitted by applicable law and regulation, the views of the Tribe and the Most Likely Descendant(s) are taken into consideration when decisions are made about the disposition of other Native American archaeological materials and records.

IV. REPORTING REQUIREMENTS

A. Within eighteen (18) months after the FHWA has determined that all field work required by stipulation I.A. - C. , inclusive, has been completed, the FHWA will ensure preparation, and concurrent distribution to the other MOA parties and to the Tribe should the Tribe so request, of a written draft technical report that documents the results of implementing the requirements of stipulations I.A.- C. , inclusive. The reviewing parties will be afforded 30 days following receipt of the draft technical report to submit any written comments to the FHWA. Failure of these parties to respond within this time frame shall not preclude the FHWA from authorizing revisions to the draft technical report as the FHWA may deem appropriate. The FHWA will provide the reviewing parties with written documentation indicating whether and how the draft technical report will be modified in accordance with any reviewing party comments. Unless the reviewing parties object to this documentation in writing to the FHWA within 30 days following receipt, the FHWA may modify the draft technical report as the FHWA may deem appropriate. Thereafter, the FHWA may issue the technical report in final form and distribute this document in accordance with Paragraph B. of this Stipulation.

B. Copies of the final technical report documenting the results of implementing the requirements of stipulation I.A.- C., inclusive, will be distributed by the FHWA to the other MOA parties, to the Tribe, and to the appropriate California Historical Resources Information Survey (CHRIS) Regional Information Center, subject to the terms of stipulation VI.B.

C. The FHWA shall ensure that public outreach efforts, in the form of a webpage, interpretive displays, and oral presentation(s), described in the Treatment Plan (Attachment 2), that communicate, in lay terms, the results of implementing the requirements of stipulation I.A. to members of the interested public, are distributed for review and comment concurrently with and in the same manner as that prescribed for the draft technical report prescribed by paragraph A. of this stipulation.

V. DISCOVERIES AND UNANTICIPATED EFFECTS

A. If the FHWA determines during implementation of the Treatment Plan or after construction of the Undertaking has commenced, that either the Treatment Plan or the Undertaking will affect a previously unidentified property that may be eligible for the National Register, or affect a known historic property in an unanticipated manner, the FHWA will address the discovery or unanticipated effect in accordance with those provisions of the Treatment Plan that relate to the treatment of discoveries and unanticipated effects. The FHWA at its discretion may hereunder assume any discovered property to be eligible for the National Register. The FHWA compliance with this stipulation shall satisfy the requirements of 36 CFR § 800.13(a)(2).

B. If the discovery or unanticipated affect addressed by this stipulation occurs on federal lands and includes Native American burials and cultural items, the FHWA shall consult with the responsible concurring federal agency regarding the National Register eligibility of the discovery. Thereafter, all responsibility for treatment of the discovery shall revert to the concurring federal agency pursuant to stipulation III.A.

VI. ADMINISTRATIVE PROVISIONS

A. STANDARDS

1. Professional Qualifications. The FHWA shall ensure that all activities prescribed by stipulations I., III., IV., and V. of this MOA shall be carried out by or under the direct supervision of a person or persons meeting, at a minimum, the Secretary of Interior's

Professional Qualifications Standards (PQS) (48 FR 44738-44739) in the appropriate disciplines. However, nothing in this stipulation may be interpreted to preclude the FHWA or any agent or contractor thereof from using the properly supervised services of persons who do not meet the PQS.

2. Documentation Standards. The FHWA shall ensure that documentation prepared in partial fulfillment of the Stipulations in this MOA is consistent with the *Secretary of the Interior's Standards for Archaeological Documentation* and the *Secretary of the Interior's Guidelines for Archaeological Documentation* (48 FR 44734-44737), and with the California Office of Historic Preservation's December 1989 *Archaeological Resource Management Reports (ARMR): Recommended Contents and Format* (Preservation Planning Bulletin No. 4[a]).

3. Curation and Curation Standards. To the extent permitted by applicable federal and state law, and by applicable federal and state regulation, the FHWA shall ensure that the materials and records resulting from the activities prescribed by Stipulations I., III., and V. of in this MOA are curated in accordance with 36 CFR Part 79. Should any conflict arise between the terms of this paragraph and stipulation III., the terms of stipulation III. shall prevail.

B. CONFIDENTIALITY

The parties to this MOA and the Tribe acknowledge that historic properties covered by this MOA are subject to the provision of § 304 of the NHPA of 1966 and § 6254.10 of the California Government Code (Public Records Act), relating to the disclosure of archaeological site information and having so acknowledged, will ensure that all actions and documentation prescribed by this MOA are consistent with § 304 of the NHPA of 1966, as amended, and with § 6254.10 of the California Government Code.

C. RESOLVING OBJECTIONS

1. The process hereunder set forth for resolving objections shall not apply to the Undertaking itself or to any action or decision made pursuant to stipulations II.B., III.A., or V.B. by a concurring federal agency with regard to the treatment of Native American burials and related items discovered on federal lands.

2. Should any party to this MOA or the Tribe object to the manner in which the terms of this MOA are implemented, to any action carried out or proposed with respect to implementation of the MOA, or to any documentation prepared in accordance with and subject to the terms of this MOA, the FHWA shall immediately notify the other parties to this MOA and the Tribe of the objection and promptly consult with the objecting party, the other parties to this MOA, and the Tribe for no more than 14 days to resolve the objection. The FHWA may extend this consultation period. If the objection is resolved through such consultation, the action disputed may proceed in accordance with the terms of that resolution. If, after initiating such consultation, the FHWA determines that the objection cannot be resolved through consultation, the FHWA shall forward all documentation relevant to the objection to the ACHP, including the FHWA's proposed response to the objection, with the expectation that the ACHP will within thirty (30) days after receipt of such documentation:

   a. advise the FHWA that the ACHP concurs in the FHWA's proposed response to the objection, whereupon the FHWA will respond to the objection accordingly. The objection shall thereby be resolved; or

   b. provide the FHWA with recommendations, which the FHWA will take into account in reaching a final decision regarding its response to the objection. The objection shall thereby be resolved; or

   c. notify the FHWA that the objection will be referred for comment pursuant to 36 CFR § 800.7(c), and proceed to refer the objection and comment. The FHWA shall take the resulting comments into account in accordance with 36 CFR § 800.7(c)(4) and Section 110(1) of the NHPA. The objection shall thereby be resolved.

3. Should the ACHP not exercise one of the above options within 30 days after receipt of all pertinent documentation, the FHWA may assume the ACHP's concurrence in its proposed response to the objection and proceed to implement that response. The objection shall thereby be resolved.

4. The FHWA shall take into account any ACHP recommendation or comment provided in accordance with this section C. of stipulation VI. with reference only to the subject of the objection. The FHWA's responsibility to carry out all actions under this MOA that are not the subjects of the objection will remain unchanged.

5. At any time during implementation of the measures stipulated in this MOA, should an objection pertaining to such implementation be raised by a member of the public, the FHWA shall notify the parties to the MOA and the Tribe in writing of the objection and take the objection into consideration. The FHWA shall consult with the objecting party and if the objecting party so requests, with Caltrans, the other parties to this MOA, the Tribe, and SHPO for no more than fifteen (15) days. Within ten (10) days following closure of this consultation period, the FHWA will render a decision regarding the objection and notify all consulting parties of its decision in writing. The objection will thereby be resolved. In reaching its decision, the FHWA will take into account any comments from the consulting parties regarding the objection, including the objecting party. The FHWA's decision regarding the resolution will be final.

6. The FHWA shall provide all parties to this MOA, the Tribe, and the ACHP when the ACHP comments have been issued hereunder, and any parties that have objected pursuant to paragraph 4. of section C. of this stipulation, with a copy of its final written decision regarding any objection addressed pursuant to this stipulation.

7. The FHWA may authorize any action subject to objection under section C. of this stipulation to proceed after the objection has been resolved in accordance with the terms of section C.

D. AMENDMENTS

1. Any party to this MOA or the Tribe may propose that this MOA be amended, whereupon the parties to this MOA and the Tribe will consult for no more than thirty (30) days to consider such amendment. The FHWA may extend this consultation period. The amendment process shall comply with 36 CFR §§ 800.6(c)(1) and 800.6(c)(7). This MOA may be amended only upon the written agreement of the signatory parties. If it is not amended, this MOA may be terminated by either signatory party in accordance with section E. of this stipulation.

2. Attachment 2 (Treatment Plan) to this MOA may be amended through consultation among the parties to this MOA without amending the MOA proper.

E. TERMINATION

1. If this MOA is not amended as provided for in section D. of this stipulation, or if either signatory party proposes termination of this MOA for other reasons, the signatory party proposing termination shall, in writing, notify the other parties to this MOA and the Tribe, explain the reasons for proposing termination, and consult with the other parties and the Tribe for at least thirty (30) days to seek alternatives to termination. Such consultation shall not be required if the FHWA proposes termination because the Undertaking no longer meets the definition set forth in 36 CFR § 800.16(y).

2. Should such consultation result in an agreement on an alternative to termination, then the parties and the Tribe shall proceed in accordance with the terms of that agreement.

3. Should such consultation fail, the signatory party proposing termination may terminate this MOA by promptly notifying the other parties to this MOA and the Tribe in writing. Termination hereunder shall render this MOA without further force or effect.

4. If this MOA is terminated hereunder and if the FHWA determines that the Undertaking will nonetheless proceed, then the FHWA shall either consult in accordance with 36 CFR § 800.6 to develop a new MOA or request the comments of the ACHP pursuant to 36 CFR Part 800.

F. DURATION OF THE MOA

1. Unless terminated pursuant to section E. of this stipulation, or unless it is superceded by an amended MOA, this MOA will be in effect following execution by the signatory parties until the FHWA, in consultation with the other parties to this MOA and the Tribe, determines that all of its stipulations have been satisfactorily fulfilled. Upon a determination by the FHWA that all of the terms of this MOA have been satisfactorily fulfilled, this MOA will terminate and have no further force or effect. The FHWA will promptly provide the other parties to the MOA and the Tribe with written notice of its determination and of the termination of this MOA. Following provisions of such notice, this MOA will have no further force or effect.

2. The terms of this MOA shall be satisfactorily fulfilled within eight (8) years following the date of execution by the FHWA and the SHPO. If the FHWA determines that this requirement cannot be met, the parties to this MOA and the Tribe will consult to

reconsider its terms. Reconsideration may include: 1) the continuation of the MOA as originally executed; 2) amendment; or 3) termination. In the event of termination, the FHWA will comply with section E.4. of this stipulation, if it determines that the Undertaking will proceed notwithstanding termination of this MOA.

3. If the Undertaking has not been implemented within eight (8) years following the date of execution of this MOA by the FHWA and the SHPO, this MOA shall automatically terminate and have no further force or effect. In such event, the FHWA shall notify the other parties to the MOA and the Tribe in writing and, if it chooses to continue with the Undertaking, shall reinitiate review of the Undertaking in accordance with 36 CFR 800.

G. EFFECTIVE DATE OF THIS MOA.

This MOA will take effect on the date that it has been executed by the FHWA and the SHPO.

EXECUTION of this MOA by the FHWA and SHPO, its transmittal by the FHWA to the ACHP in accordance with 36 CFR § 800.6(b)(1)(iv), and subsequent implementation of its terms, shall evidence, pursuant to 36 CFR § 800.6(c), that this MOA is an agreement with the ACHP for purposes of Section 110(1) of the NHPA, and shall further evidence that the FHWA has afforded the ACHP an opportunity to comment on the Undertaking and its effects on historic properties, and that the FHWA has taken into account the effects of the Undertaking on historic properties.

SIGNATORY PARTIES:

Federal Highway Administration

By for Gene K. Fong — Date 11/5/04
California Division Administrator

California State Historic Preservation Officer

By Milford Wayne Donaldson — Date 3 NOV 2004
Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

CONCURRING PARTIES:

California Department of Transportation

By _____ 11/8/04

Thomas P. Hallenbeck — Date

Director, District 9, Bishop

Bureau of Land Management

By _____ 11/04/04

Bill Dunkelberger — Date

Bishop Field Manager

Inyo National Forest

By _____

Jeffrey E. Bailey — Date

Inyo National Forest Supervisor